



AGENDA

Thursday, May 9, 2013 - 10:00 AM

Board of County Commissioners Business Meeting

Beginning Board Order No. 2013-27

I. CALL TO ORDER

- Roll Call
- Pledge of Allegiance
- Approval of Order of Agenda

II. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

III. PRESENTATION *(Following are items of interest to the citizens of the County)*

1. Presentation Recognizing Clackamas County Volunteer Neil Mast (Tracy Moreland, Public and Government Affairs)

IV. PUBLIC HEARING *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

- 2 1. First Reading of Ordinance No. _____ Amending Chapter 2.07, Compliance Hearings Officer, of the Clackamas County Code (Scott Caulfield, Code Enforcement and Rhett Tatum, County Counsel)

V. DISCUSSION ITEMS *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

~NO DISCUSSION ITEMS SCHEDULED

VI. CONSENT AGENDA *(The following items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Study Session. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

- 3 1. Approval of a Contract Amendment with Northwest Family Services - CYF

B. Department of Transportation & Development

- 4
1. Approval of Agreement No. 28781 between Clackamas County and the Oregon Department of Transportation for OR 213, harmony, Sunnyside Roads Sidewalk/Signal Improvements
 - 5 2. Approval of an Intergovernmental Agreement between Clackamas County, Oregon Department of Transportation and Hood River County for Partnership in the Mt. Hood Multimodal Transportation Plan

C. Elected Officials

- 6
1. Approval of Previous Business Meeting Minutes – BCC

D. Business & Community Services

- 7
1. Approval of a Cooperative Intergovernmental Agreement between Clackamas County and the City of Lake Oswego for Capital Contribution
 - 8 2. Approval of a Cooperative Intergovernmental Agreement between Clackamas County and the City of Milwaukie for Capital Contribution

VII. COUNTY ADMINISTRATOR UPDATE

VIII. COMMISSIONERS COMMUNICATION

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.

<http://www.clackamas.us/bcc/business.html>



GARY SCHMIDT
DIRECTOR

PUBLIC AND GOVERNMENT AFFAIRS

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

May 9, 2013

Board of County Commissioners
Clackamas County

Members of the Board:

Presentation recognizing Clackamas County volunteer Neil Mast.

| | |
|-------------------------|--|
| Purpose/Outcomes | Recognizing a community volunteer for exemplary service to education, young people and the betterment of Clackamas County. |
| Fiscal Impact | None |
| Funding Source | N/A |
| Safety Impact | N/A |
| Duration | N/A |
| Previous Action | None |
| Contact Person | Tracy Moreland, Community Relations Specialist – PGA 503-655-8520 |

BACKGROUND

After 41 seasons announcing home football and basketball games for Rex Putnam High School, sports announcer Neil Mast will retire from his volunteer role at the end of the 2013 track and field season.

Mr. Mast announced Rex Putnam boys' football games, boys' and girls' basketball games and track and field meets.

Over the years he has also announced Putnam gymnastics, dance team, wrestling, baseball and softball competitions. He umpired community youth baseball games in the 70s and 80s.

Mr. Mast has received a number of volunteer awards, including a sportsmanship award from the National Federation of State High School Associations.

Several Clackamas County elected officials and staff are alums of Rex Putnam High School and will be on-hand to thank and recognize Mr. Mast for his service.

RECOMMENDATION

Staff recommends the Board recognize Mr. Neil Mast with a certificate of appreciation for his long-term volunteer commitment to the youth and families of Clackamas County.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gary Schmidt".

Gary Schmidt
Director, Public and Government Affairs



SCOTT CAUFIELD
BUILDING CODES ADMINISTRATOR

BUILDING CODES DIVISION

DEVELOPMENT SERVICES DIVISION
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

May 9, 2013

Board of County Commissioners
Clackamas County

Members of the Board:

**First Reading of an Ordinance Amending Chapter 2.07
of the Clackamas County Code**

| | |
|--|--|
| Purpose/Outcomes | The administrative fee will provide revenue to defray the cost of administering the Code Enforcement program |
| Dollar Amount and Fiscal Impact | This administrative fee is anticipated to generate \$100,000 to \$125,000 per year |
| Funding Source | This fee will be paid by property owners who own property containing single or multiple verified violation(s) |
| Safety Impact | No impact |
| Duration | Fee will be assessed beginning July 1, 2013 and will be ongoing. |
| Previous Board Action/Review | 10/25/2011 BCC authorized the development of an administrative fee. – 1/23/13 Code Enforcement Planning Session - 4/16/13 : Fees, Fines and Collections Study Session |
| Contact Person | Scott Caufield, Building Codes Administrator – DTD Code Enforcement 503-742-4747 |

BACKGROUND:

Following a planning session on January 23, 2013, the Board directed DTD to proceed with a number of changes to the County's Code enforcement program.

On April 16, 2013 the Board held a follow-up study session on the changes which require an amendment to Chapter 2.07 of the County Code. The Board indicated staff should move forward with changes creating CCC 2.07.030(E). This section is on a separate track from the other suggested policy changes because of the revenue implications.

The proposed amendments would:

- (1) Establish a \$75 dollar a month administrative compliance fee every thirty days or fraction thereof, until the violation is abated.

Recommendation

Staff respectfully recommends the Board of County Commissioners read the proposed Ordinance by title only and hold a hearing scheduled for May 9, 2013.

Respectfully submitted,

A handwritten signature in blue ink that reads "Scott D. Caufield". The signature is written in a cursive style with a large, looped initial "S".

Scott Caufield, CBO
Building Codes Administrator

ORDINANCE NO. _____

**An Ordinance Amending Chapter 2.07, Compliance Hearings Officer, of the
Clackamas County Code**

WHEREAS, over time it has become necessary to make changes to the County's code enforcement program; and

WHEREAS, following public outreach, the Board of County Commissioners directed staff to identify and propose those changes; and

WHEREAS, as part of its review, County Code Enforcement staff determined that an administrative compliance fee of seventy-five dollars per month from the date a violation was verified would make the program more financially sustainable and encourage voluntary compliance; and

WHEREAS, the Board of County Commissioners determined that this fee should be adopted independently of the other changes to allow the Code Enforcement Program to collect this revenue; now, therefore;

The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 2.07 of the Clackamas County Code is hereby amended as shown in Exhibit A attached hereto.

ADOPTED this _____ day of _____, 2013.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Chapter 2.07

2.07 COMPLIANCE HEARINGS OFFICER

2.07.010 Philosophy and Purpose

Clackamas County's philosophy on code enforcement is to first take the approach of voluntary compliance and use an enforcement approach only as a last resort. To implement this philosophy, a protocol has been developed as the basis for the enforcement of the code. The approach is to develop solutions based on individual situations and provide broad-based public education. The assumption of the Board of Commissioners is that education of citizens regarding the requirements of our codes will solve most issues and our contacts with affected citizens will be to take an understanding and helpful approach to resolving potential enforcement issues.

The purpose of this chapter is to implement this philosophy and provide the prompt, effective, and efficient enforcement of the Clackamas County Zoning and Development Ordinance and the following chapters of this code: the Clackamas County Solid Waste and Waste Management chapter, the Application and Enforcement of the Clackamas County Building Code chapter, specifically including all administrative rules and referenced provisions of Section 9.02.040 of that chapter, the Excavation and Grading chapter, the Road Use chapter, and the Abatement of Dangerous Buildings chapter, and the Graffiti chapter. The Office of Compliance Hearings Officer is hereby created. The Compliance Hearings Officer shall act on behalf of the Board of County Commissioners in considering and applying regulatory enactments and policies set forth in this chapter. The Compliance Hearings Officer shall be appointed by the Board of County Commissioners to serve at the pleasure of, and shall be paid a fee for service fixed by, the Board of County Commissioners.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2000, 10/12/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 07-2008, 12/18/08]

2.07.020 Jurisdiction Of Compliance Hearings Officer

The Compliance Hearings Officer shall have jurisdiction and authority to enforce the chapters cited in Section 2.07.010. In cases filed by the County with the Hearings Officer, the Hearings Officer's decision shall be the County's final determination. Judicial review of the Hearing Officer's decision may be sought before the Clackamas County Circuit Court as provided by Section 2.07.130.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 42003, 3/13/03]

2.07.030 Process for Enforcement of Code

- A. Review of Reports - Sufficiency
 - 1. Statement of Facts. When an alleged violation is reported to the County, staff shall evaluate the complaint and conduct a preliminary investigation

to identify the priority level, established by policy of the Board of County Commissioners, into which the violation falls. The County shall prepare a statement of the facts and shall review the facts and circumstances surrounding the alleged violation.

2. Sufficiency of Evidence. The County shall not proceed further with the matter if it is determined that there is not sufficient evidence to support the allegation, or if the County determines that it is not in the best interest of the County to proceed. [Added by Ord. 4-2003, 3/13/03]

B. Voluntary Compliance Agreement.

1. The County may enter into a written voluntary compliance agreement with respondent before or after a citation is issued. The agreement shall include the required corrective action, time limits for compliance and shall be binding.
2. The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation for any purpose.
3. The County will delay further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the required corrective action. The County shall take no further action concerning the alleged violation if all terms of the voluntary compliance agreement are satisfied, other than steps necessary to terminate the proceedings against respondent. [Added by Ord. 4-2003, 3/13/03]

C. Failure to Comply with Voluntary Compliance Agreement. Failure to comply with any term of the voluntary compliance agreement constitutes a separate violation, and shall be handled in accordance with the procedures established by this chapter, except no further notice after the voluntary compliance agreement has been signed need be given before further enforcement proceedings are initiated. The County may also proceed on the alleged violation that gave rise to the voluntary compliance agreement. [Added by Ord. 4-2003, 3/13/03]

D. Citation and Forfeiture; Abatement Requirements.

1. The County may issue respondent a citation for committing the violation and may require the respondent to abate the violation and/or enter into a voluntary compliance agreement within a specified time period. The citation shall contain the same information required to be included in the complaint by section 2.07.040, and the forfeiture amount to be paid as a result of committing the violation.
2. Respondent may admit the existence of a violation by paying the forfeiture amount and correcting the violation. Payment of the forfeiture does not relieve respondent of the requirement to correct the violation. If the violation is disputed, respondent may request a hearing before the Compliance Hearings Officer, as described in this chapter.
3. Citations may be served by personal service on respondent. Citations may also be served by certified mail, return receipt requested through the United States Postal Service.

4. The County, in its discretion, may proceed directly into the state court system in any matter to secure compliance with the requirements of this Code. [Added by Ord. 4-2003, 3/13/03]

E. Administrative Compliance Fee

Beginning on the date that the county verifies a violation, it may assess respondent(s) an administrative compliance fee every thirty days, or fraction thereof, until the violation is abated. The administrative fee shall be set by resolution of the Board of County Commissioners and found in Appendix A to this code. The county, in its discretion, may waive all or some of the assessed administrative compliance fees if respondent(s) promptly and voluntarily abates all violations identified on the property.

FE. Immediate Remedial Action

If the County determines that the alleged violation presents an immediate danger to the public health, safety or welfare, the County may require immediate remedial action. If the County is unable to serve a citation on the respondent or, if after such service the respondent refuses or is unable to remedy the violation, the County may proceed to remedy the violation by any means available under law. [Added by Ord. 4-2003, 3/13/03]

2.07.040 Request For Hearing/Initiation of Proceedings

- A. Respondent may initiate a proceeding before the Compliance Hearings Officer by providing a written request for a hearing. If a request for a hearing is filed, the County shall file a complaint with the Compliance Hearings Officer. The County may, for any violation, file a complaint with the Compliance Hearings Officer before or after a citation is issued. The complaint shall contain the following: name and address of respondent (s); address or location of the alleged violation; nature of violation, including ordinance provision, County Code provisions, statute or administrative rules section violated; relief sought; and department initiating procedure. Employees of the County's Department of Transportation and Development are authorized to sign and file complaints on behalf of the County.
- B. In a case in which a citation has been issued and the respondent does not wish to contest the existence of the violation and there is economic or financial hardship, respondent may appeal only the forfeiture amount imposed by the citation by initiating a proceeding before the Compliance Hearings Officer. The only issue before the Compliance Hearings Officer in such a proceeding is whether the respondent establishes sufficient economic or financial hardship to justify reduction of the forfeiture amount.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.050 Notice of Hearing

- A. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 2.07.060 shall be attached to the notice. Notice shall be mailed or delivered at least 15 days prior to the hearing date.

- B. The Compliance Hearings Officer shall cause notice of the hearing to be given to the respondent(s) either personally or by registered mail with return receipt requested. Notice may be delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.
- C. The failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this Chapter.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.060 Statement of Rights

- A. The Compliance Hearings Officer shall inform each party in writing of the following matters:
 - 1. A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made, and an explanation of the burdens of proof or burdens of production of evidence;
 - 2. That a record shall be made of the proceedings and the manner of making the record and its availability to the parties;
 - 3. The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the order of the Compliance Hearings Officer;
 - 4. Whether an attorney will represent the County in the matters to be heard and the respondent's right to be represented by an attorney at their expense;
 - 5. The title and function of the Compliance Hearings Officer, including the effect and authority of the Compliance Hearings Officer's determination; and,
 - 6. That the decision of the Compliance Hearings Officer may be appealed as described in Section 2.07.130, and that the appellant shall pay all costs of the appeal including costs for preparation of a transcript.
- B. The failure to give notice of any item specified in Subsection A of this Section shall not invalidate any order of the Compliance Hearings Officer unless on review a court finds that the failure affects the substantive rights of one of the parties. In the event of such a finding, the court shall remand the matter to the Compliance Hearings Officer for a reopening of the hearing and shall direct the Compliance Hearings Officer as to what steps shall be taken to remedy any prejudice to the rights of any party.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.070 Procedure In Compliance Hearings

- A. Hearings to determine whether a violation has occurred shall be held before the Compliance Hearings Officer. The County must prove the violation alleged by a preponderance of the admissible evidence.

- B. Unless precluded by law, informal disposition of any proceeding may be made, with or without a hearing, by stipulation, consent order, agreed settlement, or default.
- C. A Party may elect to be represented by counsel at his/her own expense and to respond to and present evidence and argument on all issues involved.
- D. A Party may request that a hearing be held telephonically. The Compliance Hearings Officer has the discretion to grant or deny a request for a telephonic hearing for any reason.
- E. A Party may request that an appeal to the Compliance Hearings Officer be conducted solely based on written submissions by the parties, without a hearing. The Compliance Hearings Officer may grant a request for appeal based only on written submissions if, and only if, all parties agree in writing to waive a hearing and to proceed through written submission only.
- F. An order adverse to a party may be issued upon default only upon a prima facie case made on the record before the Compliance Hearings Officer.
- G. Testimony shall be taken upon oath or affirmation of the witness. The Compliance Hearings Officer may administer oaths or affirmations to witnesses.
- H. The Compliance Hearings Officer shall issue subpoenas to any party upon showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the County, shall receive fees and mileage as prescribed by law for witnesses in civil actions from the party requesting their testimony. Any party requesting the issuance of a subpoena shall pay applicable fees and mileage at the time the issuance of a subpoena is requested.
- I. If any person fails to comply with any subpoena so issued, or any party or witness refuses to testify on any matters on which he/she may be lawfully interrogated, a judge of the Circuit Court for Clackamas County, on the application of the Compliance Hearings Officer, or of the party requesting the issuance of the subpoena, may compel obedience by proceedings for Contempt as in the case of disobedience of the requirements of subpoena issued from such court or a refusal to testify therein.
- J. The Compliance Hearings Officer shall place on the record a statement of the substance of any written or oral ex parte communications made to the Compliance Hearings Officer on a fact in issue during the pendency of the proceedings. The Compliance Hearings Officer shall notify the parties of the communication and of their right to rebut such communications.
- K. The record of the case shall include:
 - 1. All pleadings, motions, and intermediate rulings;
 - 2. Evidence received;
 - 3. Stipulations;
 - 4. A statement of matters officially noticed;
 - 5. Questions and offers of proof, objections, and ruling thereon;
 - 6. A statement of any ex parte communications on a fact in issue made to the Compliance Hearings Officer during the pendency of the proceedings;
 - 7. Proposed findings and exceptions; and
 - 8. The final order prepared by the Compliance Hearings Officer.

- L. A verbatim, written or mechanical record shall be made on all motions, rulings, and testimony. The record need not be transcribed unless requested for purposes of court review. The Compliance Hearings Officer shall charge the party requesting transcription the cost of transcription in advance. Failure to pay the transcription fees shall constitute a separate ground for denial of review of the decision of the Hearings Officer.
- M. Enforcement proceedings before the Compliance Hearings Officer shall be conducted in accordance with the procedure set forth in this Chapter. The Compliance Hearings Officer may promulgate reasonable rules and regulations, not inconsistent with this Chapter, concerning procedure and the conduct of hearings.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.080 Presentation of Evidence

- A. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Erroneous rulings on evidence shall not preclude action by the Compliance Hearings Officer unless shown on the record to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. The Compliance Hearings Officer shall give effect to the rules of privilege recognized by law.
- B. All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in Subsection D of this Section, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.
- C. Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.
- D. The Compliance Hearings Officer may take notice of judicially recognizable facts, and the Compliance Hearings Officer may take official notice of general, technical, or scientific facts within the specialized knowledge of County employees. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/3/03]

2.07.090 Powers Of The Compliance Hearings Officer

- A. The Compliance Hearings Officer shall order a party found in violation to comply within such time as the Compliance Hearings Officer may by order allow. The order may require such party to do any and all of the following:
 - 1. Make any and all necessary repairs, modifications, and/or improvements to the structure, real property, or equipment involved;

2. Obtain any and all necessary permits, inspections and approvals;
3. Order compliance as appropriate under the State Building Code, as defined in ORS 455.010(8);
4. Install any equipment necessary to achieve compliance;
5. Pay to Clackamas County a civil penalty, the amount of which shall be determined by the Compliance Hearings Officer within the range established by the Board of County Commissioners pursuant to Section 2.07.120;
6. Reimburse Clackamas County for actual costs incurred in conjunction with the enforcement action;
7. Pay ~~an~~the administrative compliance fee described in Section 2.07.030(E); established by the Board of County Commissioners pursuant to Section 1.01.090, which will be an estimated amount of the cost of enforcement, not to exceed actual cost;
8. Order the eviction of any tenant from any property on which there exists a violation. Such an eviction will be performed in compliance with Oregon law;
9. Abate or remove any nuisance;
10. Change the use of the building, structure, or real property involved;
11. Pay a reduced forfeiture amount;
12. Undertake any other action reasonably necessary to correct the violation.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03; Amended by Ord. 04-2010, 4/22/10]

2.07.100 Orders Of The Compliance Hearings Officer

- A. Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.
- B. Findings of fact and conclusions of law shall accompany a final order. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the Compliance Hearings Officer's order.
- C. The Compliance Hearings Officer shall notify the respondent of a final order by delivering or mailing a copy of the order and any accompanying findings and conclusions to the respondent or, if applicable, the respondent's attorney of record. The Compliance Hearings Officer shall issue a final order within 14 days from the conclusion of the hearing.
- D. Every final order shall include a citation of the ordinance or title, chapter and section under which the order may be judicially reviewed.
- E. A final order shall become effective ten calendar days after the date it is signed by the Compliance Hearings Officer unless a party makes objections to the form of the order before it becomes effective. If objections are made, the final order shall become effective on the date the Compliance Hearings Officer signs the amended final order, or the date the Compliance Hearings Officer states in writing that the final order will not be amended.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.110 Enforcement Of Compliance Hearings Officer Orders

- A. Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.
- B. The County may institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any order of Compliance Hearings Officer, including, an action to obtain judgment for any civil penalty imposed by an order of the Compliance Hearings Office pursuant to Section 2.07.090.5 and/or any assessment for costs and administrative compliance fees imposed pursuant to Sections 2.07.090.A.6 and 2.07.090.A.7.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.120 Civil Penalty

The civil penalties for this chapter of the Code, that may be imposed by the Compliance Hearings Officer, shall be set by resolution of the Board of County Commissioners

[Added by Ord. 04-2003, 3/13/03; Amended by Ord. 04-2010, 4/22/10]

2.07.130 Judicial Review

Review of the final order of a Compliance Hearings Officer under this Chapter by any aggrieved party, including Clackamas County, shall be by writ of review as provided in ORS 34.010 - 34.100, unless the Hearings Officer makes a land use decision, in which case the land use decision may be reviewed by the Land Use Board of Appeals pursuant to ORS Chapter 197.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

A RESOLUTION OF THE CLACKAMAS
COUNTY BOARD OF COUNTY
COMMISSIONERS ADOPTING A
CHANGED ADMINISTRATIVE
COMPLIANCE FEE

RESOLUTION NO. _____

NOW, THEREFORE; BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS
THAT:

Section 1: Pursuant to Section 1.01.090 of the Clackamas County Code, the Board adopts the fees shown on the attachment which are incorporated by this reference.

Section 2: The Board hereby directs that the changes to fees shown on the attachment to be included in Appendix A of the Clackamas County Code.

Section 3: The County shall charge all fees set by state or federal law. If such a fee is changed the County shall charge the new amount when it becomes effective.

Section 4: Pursuant to ORS 310.145, the Board classifies the fees adopted by this resolution as fees not subject to the limits of section 11b, Article XI of the Oregon Constitution.

Section 5: Effective Date. The changes to fees authorized by Section 1 of this resolution and shown on the attachments shall become effective on _____, 2013.

DATED this ____ day of _____, 2013.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

| DEPARTMENT/DIVISION | AUTHORIZING LEGISLATION | Fee set by ORS | ORS auth. fee | Code auth. fee | FEE AMOUNT |
|--|-----------------------------------|----------------|---------------|----------------|---|
| <p>Compliance Hearings Officer Code Enforcement Section - Administrative Compliance Fee</p> | <p>Code §2.07.090.A.707.030.E</p> | | | <p>x</p> | <p>\$75.00/per month or a portion thereof.</p> <p><u>Fee to be charged on the date that Code Enforcement staff first verifies a violation. Fee to be charged beginning on the earliest of the following dates:</u></p> <p>1. The issuance of a citation pursuant to Code §2.07.030.D, or</p> <p>2. The date</p> |

| | | | | | |
|--|--|--|--|--|--|
| | | | | | of filing a complaint pursuant to Code §2.07.040 when no citation is issued, or 3. The date established in a voluntary compliance agreement entered into pursuant to Code §2.07.030.B. |
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May 9, 2013

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of Contract Amendment with
Northwest Family Services

| | |
|--|---|
| Purpose/Outcomes | This contract amendment will add three new service components to the Strengthening, Preserving, & Reunifying Families services contract (Support Funds, Alcohol/Drug Counselor and Family Therapist). 96 additional clients will be served as a result of this amendment. |
| Dollar Amount and Fiscal Impact | Increase contract amount by \$228,766. Total contract amount increases from \$165,000 to \$393,766. |
| Funding Source | State of Oregon acting by and through its Department of Human Services |
| Safety Impact | N/A |
| Duration | Effective upon signature and terminates on November 30, 2013 |
| Previous Board Action | Board approved the original contract on 1-17-13. |
| Contact Person | Rodney A. Cook |
| Contract No. | CYF 12 12/13 |

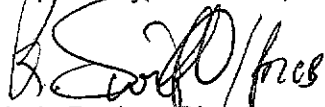
BACKGROUND:

This contract has been reviewed and approved by County Counsel. CYF has been charged with oversight of this contract and as such completed a procurement process to determine which collaborating partner agency would provide the three new service components. Northwest Family Services was the successful applicant. The three new service components include Client Support Funds, and rapid access to both an Alcohol/Drug Counselor and Family Therapist. The Client Support Funds will allow for miscellaneous purchases for clients such as bus tickets, diapers, cleaning supplies, and short-term rental assistance. No County General Funds are involved with this contract.

RECOMMENDATION:

Staff recommends the Board approval of this amendment and authorizes Cindy Becker, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,


Cindy Becker, Director

**Contract Amendment (FY 12-13)
Health, Housing and Human Services**

HHHS Contract Number: CYF 12 12/13

Board Order Number #0117113-A6

Division: CYF/HHHS

Amendment No. 1

Contractor: Northwest Family Services

Amendment Requested By: CYF

Changes: (X) Scope of Service
(X) Contract Time

(X) Contract Budget
() Other:

Justification for Amendment:

The Strengthening, Preserving, Reunifying Families project has several service components. Two new components are being added through this amendment. 1) The Support Funds component, (i.e. amount and disbursement process), of the contract between H3S/CYF and subcontractors was just recently negotiated and 2) The Immediate Response and Assessment Services (i.e. addition of two therapist positions), component was just recently negotiated.

The effective date and duration of contract between the State DHS and County H3S/CYF was modified from the intended start date due the signature process resulting in a change of start and end dates with Northwest Family Services.

Each site is allowed \$33,333.00 in Support Funds. This contractor oversees two sites equaling \$66,666.00 in Support Funds that would be added through this amendment.
\$162,100.00 is added to cover the costs for two new positions added through this amendment to include:
1FTE Certified Alcohol and Drug counselor and 1FTE Mental Health Therapist

Total contract amount will increase from \$165,000 to \$393,766

Amend: Scope of Services - Provide Strengthening, Preserving, Reunifying Families-Family Navigator and Family Resource Coordinator services as described in Work Plan Exhibit 1 attached hereto.

To Read: Provide Strengthening, Preserving, Reunifying Families-Family Navigator, Family Resource Coordinator, Immediate Response and Assessment Services, and Support Services Fund Disbursement services as described in Work Plan Exhibit 1 attached hereto.

Added language to Exhibit 1 includes: *Each therapist will serve 48 families per year, typically spending 20 hours in contact with the family member. The treatment will be on-call as needed. Services will last between 4-6 weeks with a warm hand off to county services when appropriate. There will be one check-in at 2-4 weeks after the hand-off.*

Amend: Contract time - This agreement shall terminate October 31, 2013.

To Read: This agreement shall terminate *November 30, 2013.*

Contract Amendment
Page 2

Amend: Contract Budget - Up to a maximum compensation of \$165,000.00
To Read: Up to a maximum of \$393,766.00

\$66,666.00-Crisis Support Funds
\$79,600-Mental Health
\$82,500-Alcohol & Drug Specialist
Total \$393,766.00


In Witness Hereof, the parties hereto have caused this Amendment to be executed by their duly authorized officers.

Agency/Contractor

Northwest Family Services
Organization Name

6200 King Road
Address

Milwaukie, OR 97222
City, State, Postal Code



Signature

Executive Director
Title

4/25/13
Date

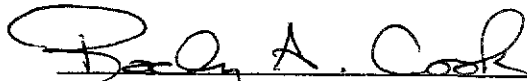
CLACKAMAS COUNTY

Commissioner John Ludlow, Chair
Commissioner Jim Bernard
Commissioner Paul Savas
Commissioner Martha Schrader
Commissioner Tootie Smith

Signing on Behalf of the Board:

Cindy Becker, Director
Health, Housing and Human Services Dept.

Date



Rodney A. Cook, Director
Children, Youth & Families Division

4-29-13

Date



4
COPY
 CAMPBELL M. GILMOUR
 DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
 150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

May 9, 2013

Board of County Commissioner
 Clackamas County

Members of the Board:

**Approval of Agreement No. 28781 between Clackamas County
 and the Oregon Department of Transportation for OR 213, Harmony,
Sunnyside Roads Sidewalk/Signal Improvements**

| | |
|--|--|
| Purpose/Outcomes | This Agreement will provide funding for the OR 213, Harmony Road and Sunnyside Road sidewalk and Intelligent Transportation System (ITS) improvements. |
| Dollar Amount and Fiscal Impact | The estimated total project cost is \$1,671,682. |
| Funding Source | Federal Aid Surface Transportation Program (STP): \$1,500,000 County Match: \$171,682 (\$152,742 from Development Agency & \$18,940 from Road Fund) |
| Safety Impact | This project will install sidewalk and ADA improvements on OR 213 (82 nd Ave), Harmony Road and Sunnyside Road to provide important pedestrian connections and will construct various signal improvements in the same area to complete an important communications gap. |
| Duration | Terminates upon completion of the Project and final payment or ten (10) calendar years following the date of final execution, whichever is sooner. |
| Previous Board Action | 04/28/11: Execution of Agreement No. 27192 (the subject Agreement supersedes, replaces and terminates Agreement No. 27192 in its entirety) 11/23/11: Execution of Agreement No. 27743 for Right of Way Services for subject project |
| Contact Person | Richard Nys, Project Manager – DTD Engineering 503-742-4702 |

BACKGROUND:

In 2009 the County began a planning study and environmental impact statement (EIS) to widen Harmony Road to five lanes. Although that project was abandoned, the County was still eligible to receive funding through the Federal Aid Surface Transportation Program (STP) based on that planning study. Staff identified the OR 213, Harmony Road and Sunnyside Road area sidewalk and signal improvements for this funding. This project consists of constructing sidewalks accessing the OR 213/Harmony Rd/Sunnyside Rd intersection, constructing Intelligent Transportation System (ITS) improvements in the area and connecting fiber optic communication to the existing fiber optic system.

The estimated total cost of the project is \$1,671,682. STP funds are limited to \$1,500,000 and the County will be responsible for the remaining \$171,682, with \$152,742 committed from the Development Agency and the remaining \$18,940 coming from County Road Fund.

This project was initially identified as a required test project for ODOT's Local Agency Certification Program and the County and ODOT entered into Agreement No. 27192 outlining

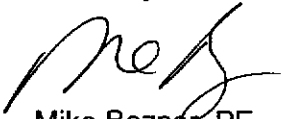
those responsibilities. Because the project is directly adjacent to an ODOT facility (OR 213), ODOT has determined that this cannot be a test project. This new agreement supersedes and replaces, and upon execution, terminates Agreement No. 27192 in its entirety.

This IGA has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approves Agreement No. 28781 with the Oregon Department of Transportation for the OR 213, Harmony Road and Sunnyside Road sidewalk and ITS improvements.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Bezner". The signature is fluid and cursive, with the first name "Mike" and last name "Bezner" clearly distinguishable.

Mike Bezner, PE
Transportation Engineering Manager

LOCAL AGENCY AGREEMENT
SURFACE TRANSPORTATION PROGRAM – URBAN
OR 213, Harmony, Sunnyside Roads Sidewalk/Signal Improvements

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State," and CLACKAMAS COUNTY, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. OR 213 (Cascade Highway North), is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission. Harmony Road and Sunnyside Road are a part of the Agency's county road system under the jurisdiction and control of Agency.
2. The City of Milwaukie has jurisdiction over the signalized intersections of Harmony Road, Linwood Avenue and Railroad Avenue; as well as, Harmony Road, Lake Road and International Way. Per their executed Agreement dated November 10, 1982, Agency may continue to operate these signalized intersections under its Traffic Signal Maintenance/Repair Agreement for county roads within the city limits of Milwaukie.
3. By the authority granted in Oregon Revised Statutes (ORS) 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree that Agency shall construct sidewalk and Intelligent Transportation Systems (ITS) Improvements along OR 213, Harmony and Sunnyside Roads, hereinafter referred to as "Project." The Project consists of constructing sidewalks on the west side of OR 213 from Harmony Road to Sunnybrook Boulevard and on the north side of Sunnyside Road from the Clackamas Town Center to OR 213, a shared use path from Clackamas Town Center to OR 213 and on Harmony Road from Clackamas Community College to OR 213. The Project also consists of constructing ITS improvements at Harmony Road's intersections with Fuller Road, the North Clackamas Parks and Recreation District (NCPRD) driveway and Linwood Avenue and will include fiberoptic communication that will connect to the existing Clackamas County/ODOT fiberoptics communication ring at OR 213/Harmony Road/Sunnyside Road. The Project will

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also evaluate and construct Americans with Disabilities Act (ADA) facilities within the Project area. The location of the Project is approximately as shown on the detailed map attached hereto, marked "Exhibit A," and by this reference made a part hereof.

2. The Project will be conducted as a part of the Federal-Aid Surface Transportation Program (STP) under Title 23, United States Code. The total Project cost is estimated at \$1,671,682 which is subject to change. STP urban funds for this Project will be limited to \$1,500,000. The Project will be financed with STP funds at the maximum allowable federal participating amount, with Agency providing the match and any non-participating costs, including all costs in excess of the available federal funds.
3. The federal funding for this Project is contingent upon approval by the Federal Highway Administration (FHWA). Any work performed prior to acceptance by FHWA or outside the scope of work will be considered nonparticipating and paid for at Agency expense.
4. State considers Agency a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
5. The term of this Agreement will begin upon execution and will terminate upon completion of the Project and final payment or ten (10) calendar years following the date of final execution, whichever is sooner.
6. This Agreement shall supersede and replace Agreement No. 27192 in its entirety. Agreement No. 27192 is terminated upon execution of this Agreement.
7. This Agreement may be terminated by mutual written consent of both Parties.
8. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.

- d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its *reasonable administrative discretion*, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
9. Any termination of this Agreement will not prejudice any rights or obligations accrued to the Parties prior to termination.
 10. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The Parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement will control over the attachments, and Attachment 1 will control over Attachment 2.
 11. Agency, as a recipient of federal funds, pursuant to this Agreement with State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and will, upon Agency's breach of any such conditions that requires State to return funds to the Federal Highway Administration, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount will be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
 12. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
 13. State's Project Manager for this Project is Mahasti Hastings, Local Agency Liaison, 123 NW Flanders Street, Portland, OR 97209-4012, 503-731-8595, mahasti.v.hastings@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.
 14. Agency's Project Manager for this Project is Richard Nys, Traffic Engineer, 150 Beaver Creek Road, Oregon City, OR 97045, 503-742-4702, richardnys@co.clackamas.or.us, or assigned designee upon individual's absence.

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Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

15. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together will constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed will constitute an original.
16. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement will bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, will be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement will not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2012-2015 Statewide Transportation Improvement Program, (Key #15599) that was approved by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

SIGNATURE PAGE TO FOLLOW

Agency/State
Agreement No. 28781

CLACKAMAS COUNTY, acting by and
through its elected officials

By _____
Chair

Date _____

By _____
Recording Secretary

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By [Signature]
Agency Legal Counsel

Date _____

Agency Contact:
Richard Nys, Traffic Engineer
150 Beaver Creek Road
Oregon City, OR 97045
503-742-4702
richardnys@co.clackamas.or.us

State Contact:
Mahasti Hastings, Local Agency Liaison
123 NW Flanders Street
Portland, OR 97209-4012
503-731-8595
mahasti.v.hastings@odot.state.or.us

STATE OF OREGON, acting by and
through its Department of Transportation

By _____
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
Technical Services Manager/
Chief Engineer

Date _____

By [Signature]
Region 1 Manager

Date 2-21-13

By [Signature]
District 2B Manager

Date 2/21/13

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

EXHIBIT "A"



VICINITY MAP

ATTACHMENT NO. 1 to Agreement No. 28781
SPECIAL PROVISIONS

1. Agency or its consultant shall, as a federal-aid participating preliminary engineering function, conduct the necessary field surveys, environmental studies, traffic investigations, foundation explorations, and hydraulic studies, identify and obtain all required permits, assist State with acquisition of necessary right of way and/or easements, and perform all preliminary engineering and design work required to produce final plans, preliminary/final specifications and cost estimates.
2. Upon State's award of the construction contract, Agency, or its consultant, shall be responsible to perform all construction engineering, field testing of materials, technical inspection and project manager services for administration of the contract.
3. State may make available Region 1's On-Call Preliminary Engineering (PE), Design and Construction Engineering Services consultant for Local Agency Projects upon written request. If Agency chooses to use said services, Agency agrees to manage the work performed by the consultant and make funds available to the State for payment of those services. All eligible work will be a federally participating cost and included as part of the total cost of the Project.
4. Indemnification language in the Standards Provisions, Paragraphs 46 and 47; and Paragraph 4 in regards to tort claims, shall be replaced with the following language:
 - a. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
 - b. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as

well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

- c. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
 - d. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
5. Agency will be responsible for obtaining all permits to perform work (including future maintenance) within the ODOT right of way prior to construction.
 6. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.
 7. Pursuant to OAR 734-020-0430, Agency shall obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal, or illumination to be installed on a State Highway.
 8. Agency and State shall enter into a separate traffic signal agreement to cover obligations for any traffic signal being installed on a State Highway.

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9. Agency, or its contractor's, electrical inspectors shall possess a current State Certified Traffic Signal Inspector certificate, in order to inspect electrical installations on State highways. The State District Permitting Office shall verify compliance with this requirement prior to construction. The permit fee should also cover the State electrician's supplemental inspection.
10. State's Traffic Systems Service Unit (TSSU) shall, at Project expense, perform any signal equipment environmental testing.
11. Traffic signal timing shall be the responsibility of State, unless there is an agreement that specifically allows a city or county to perform that function. State shall retain the right of review of the traffic signal timing for signals on State highways, or those which State maintains, and shall reserve the right to request adjustments when needed. In cases where the Agency modifies timing to add railroad or emergency vehicle preemption, bus priority, or other changes that affect vehicle or pedestrian clearances, or operation of the state highway, such modifications shall be reported to State's Region Traffic Engineer. State's Region Traffic Engineer will notify the local jurisdiction whenever timing changes that affect the operation of local street connections to the state highway are scheduled. All modifications shall follow guidelines set forth in the current Manual on Uniform Traffic Control Devices, and the current ODOT Traffic Signal Policy and Guidelines.
12. Agency shall, upon completion of the Project and at its own expense, maintain the pavement surrounding any vehicle detector loops installed in the county road in such a manner as to provide adequate protection for said detector loops. Failure to do so may result in State requiring Agency to repair or replace the damaged loops at Agency expense. Future Agency roadwork activities involving the detector loops may also result in the same State requirements. Agency shall also adequately maintain the pavement markings and signing installed in accordance with the approved signal plan sheets for the signal installation or current Manual on Uniform Traffic control Devices (MUTCD) and the current ODOT Traffic Signal Policy and Guidelines.
13. State shall, upon completion of the Project and at its own expense, maintain the pavement surrounding any vehicle detector loops installed in the State highway in such a manner as to provide adequate protection for said detector loops. State shall also adequately maintain the pavement markings and signing installed on the State highway in accordance with current State standards.
14. If Agency enters into a construction contract for performance of work on the Project where Agency is contracting work on a State highway, then Agency will require its contractor to provide the following:
 - a. Contractor shall name State as a third party beneficiary of the resulting contract.

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- b. Contractor shall indemnify, defend and hold harmless Agency, State and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, sub-contractors, or agents under this Contract.
- c. Commercial General Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State and Agency. This insurance shall include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence shall not be less than \$1,000,000 for each job site or location. Each annual aggregate limit shall not be less than \$2,000,000.
- d. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$1,000,000.
- e. Additional Insured. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the Contract shall include State and Agency and its divisions, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
- f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to State and Agency. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract.
- g. Agency shall require its contractor(s) and/or subcontractor(s) as appropriate to acquire construction and performance bonding covering State's interests where Project construction affects State Property. State will be covered individually under the bonding arrangement, not as a party in a dual obligation bond. Proof of said bonding will be provided to State by the acquiring party. If Agency fails to meet the requirements of this paragraph or the underlying agreement conditions,

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including all incorporated State and Federal laws, rules and regulations and costs are incurred by State because of it, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for those costs.

- h. Traffic signal, illumination poles and foundations installed on state highways shall conform to State's standards, pursuant to State's Traffic Structures Design Manual and Geotechnical Design Manual.
15. Agency shall be responsible for any behind the curb improvements including areas located within State highway right of way. Such improvements shall be maintained at the same level as are similar facilities owned by State. Agency may require the adjacent property owners to fund or perform maintenance of the behind the curb improvements. Agency shall remain responsible for compliance with the terms of this Agreement, and responsible for the performance of such work, even when maintenance is performed by Agency contractors or property owners, or if right of way behind the curb is partly or in whole State right of way.
16. Agency shall maintain the landscaping and irrigation to be installed for all improvements behind the curbs or roadway. Maintenance along and on highway shall include replacement of dead or dying plants and trees, removal of litter, removal of weeds or weed control and tree trimming to maintain a 17-foot clear zone in the travel lane, leaf removal and irrigation for healthy sustainability of said landscaping.
17. Agency shall be responsible for 100 percent of water and power costs associated with the landscape and irrigation installed as part of improvements behind the curbs or roadway. Agency shall ensure that the water and power companies send water and power bills directly to Agency.
18. State shall, at its own expense, maintain and operate any portions of the Project, located within the curbs on State right of way.
19. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and/or service demand.
20. Agency shall, upon completion of the Project, maintain the bike path and supply power for Project illumination at its own expense.
21. Maintenance and power responsibilities will survive any termination of this Agreement.
22. Maintenance responsibilities will survive any termination of this Agreement.

ATTACHMENT NO. 2

FEDERAL STANDARD PROVISIONS

JOINT OBLIGATIONS PROJECT ADMINISTRATION

1. State (ODOT) is acting to fulfill its responsibility to the Federal Highway Administration (FHWA) by the administration of this Project, and Agency (i.e. county, city, unit of local government, or other state agency) hereby agrees that State shall have full authority to carry out this administration. If requested by Agency or if deemed necessary by State in order to meet its obligations to FHWA, State will further act for Agency in other matters pertaining to the Project. Agency shall, if necessary, appoint and direct the activities of a Citizen's Advisory Committee and/or Technical Advisory Committee, conduct a hearing and recommend the preferred alternative. State and Agency shall each assign a liaison person to coordinate activities and assure that the interests of both parties are considered during all phases of the Project.
2. Any project that uses federal funds in project development is subject to plans, specifications and estimates (PS&E) review and approval by FHWA or State acting on behalf of FHWA prior to advertisement for bid proposals, regardless of the source of funding for construction.

PRELIMINARY & CONSTRUCTION ENGINEERING

3. State, Agency, or others may perform preliminary and construction engineering. If Agency or others perform the engineering, State will monitor the work for conformance with FHWA rules and regulations. In the event that Agency elects to engage the services of a personal services consultant to perform any work covered by this Agreement, Agency and Consultant shall enter into a State reviewed and approved personal services contract process and resulting contract document. State must concur in the contract prior to beginning any work. State's personal services contracting process and resulting contract document will follow Title 23 Code of Federal Regulations (CFR) 172, Title 49 CFR 18, ORS 279A.055, the current State Administrative Rules and State Personal Services Contracting Procedures as approved by the FHWA. Such personal services contract(s) shall contain a description of the work to be performed, a project schedule, and the method of payment. Subcontracts shall contain all required provisions of Agency as outlined in the Agreement. No reimbursement shall be made using federal-aid funds for any costs incurred by Agency or its consultant prior to receiving authorization from State to proceed. Any amendments to such contract(s) also require State's approval.
4. On all construction projects where State is the signatory party to the contract, and where Agency is doing the construction engineering and project management, Agency, subject to

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any limitations imposed by state law and the Oregon Constitution, agrees to accept all responsibility, defend lawsuits, indemnify and hold State harmless, for all tort claims, contract claims, or any other lawsuit arising out of the contractor's work or Agency's supervision of the project.

REQUIRED STATEMENT FOR UNITED STATES DEPARTMENT OF TRANSPORTATION (USDOT) FINANCIAL ASSISTANCE AGREEMENT

5. If as a condition of assistance, Agency has submitted and the United States Department of Transportation (USDOT) has approved a Disadvantaged Business Enterprise Affirmative Action Program which Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference. That program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of the financial assistance agreement. Upon notification from USDOT to Agency of its failure to carry out the approved program, USDOT shall impose such sanctions as noted in Title 49, CFR, Part 26, which sanctions may include termination of the agreement or other measures that may affect the ability of Agency to obtain future USDOT financial assistance.
6. **Disadvantaged Business Enterprises (DBE) Obligations.** State and its contractor agree to ensure that DBE as defined in Title 49, CFR, Part 26, have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds. In this regard, Agency shall take all necessary and reasonable steps in accordance with Title 49, CFR, Part 26, to ensure that DBE have the opportunity to compete for and perform contracts. Neither State nor Agency and its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. Agency shall carry out applicable requirements of Title 49, CFR, Part 26, in the award and administration of such contracts. Failure by Agency to carry out these requirements is a material breach of this Agreement, which may result in the termination of this contract or such other remedy as State deems appropriate.
7. The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this Agreement.
8. Agency agrees to comply with all applicable civil rights laws, rules and regulations, including Title V and Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 (ADA), and Titles VI and VII of the Civil Rights Act of 1964.
9. The parties hereto agree and understand that they will comply with all applicable federal, state, and local laws, regulations, executive orders and ordinances applicable to the work including, but not limited to, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270, incorporated herein by reference and made a part hereof; Title 23 CFR Parts 1.11, 140, 710, and 771; Title 49 CFR Parts 18, 24 and 26; 2 CFR 225, and OMB CIRCULAR NO. A-133, Title 23, USC, Federal-Aid Highway Act; Title 41, Chapter 1, USC 51-58, Anti-Kickback Act; Title 42 USC; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, as amended and provisions of Federal-Aid Policy Guide (FAPG).

STATE OBLIGATIONS

PROJECT FUNDING REQUEST

10. State shall submit a Project funding request to FHWA with a request for approval of federal-aid participation in all engineering, right-of-way acquisition, eligible utility relocations and/or construction work for the Project. **No work shall proceed on any activity in which federal-aid participation is desired until such approval has been obtained.** The program shall include services to be provided by State, Agency, or others. State shall notify Agency in writing when authorization to proceed has been received from FHWA. Major responsibility for the various phases of the Project will be as outlined in the Special Provisions. All work and records of such work shall be in conformance with FHWA rules and regulations.

FINANCE

11. State shall, in the first instance, pay all reimbursable costs of the Project, submit all claims for federal-aid participation to FHWA in the normal manner and compile accurate cost accounting records. Agency may request a statement of costs to date at any time by submitting a written request. When the actual total cost of the Project has been computed, State shall furnish Agency with an itemized statement of final costs. Agency shall pay an amount which, when added to said advance deposit and federal reimbursement payment, will equal 100 percent of the final total actual cost. Any portion of deposits made in excess of the final total costs of Project, minus federal reimbursement, shall be released to Agency. The actual cost of services provided by State will be charged to the Project expenditure account(s) and will be included in the total cost of the Project.
12. If federal funds are used, State will specify the Catalog of Federal Domestic Assistance (CFDA) number in the Agreement. State will also determine and clearly state in the Agreement if recipient is a subrecipient or vendor, using criteria in Circular A-133.

PROJECT ACTIVITIES

13. State shall, if the preliminary engineering work is performed by Agency or others, review and process or approve all environmental statements, preliminary and final plans, specifications and cost estimates. State shall, if they prepare these documents, offer Agency the opportunity to review and approve the documents prior to advertising for bids.
14. The party responsible for performing preliminary engineering for the Project shall, as part of its preliminary engineering costs, obtain all Project related permits necessary for the construction of said Project. Said permits shall include, but are not limited to, access, utility, environmental, construction, and approach permits. All pre-construction permits will be obtained prior to advertisement for construction.
15. State shall prepare contract and bidding documents, advertise for bid proposals, and award all contracts.

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16. Upon State's award of a construction contract, State shall perform independent assurance testing in accordance with State and FHWA Standards, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase of the Project.
17. State shall, as a Project expense, assign a liaison person to provide Project monitoring as needed throughout all phases of Project activities (preliminary engineering, right-of-way acquisition, and construction). The liaison shall process reimbursement for federal participation costs.

RIGHT OF WAY

18. State is responsible for proper acquisition of the necessary right of way and easements for construction and maintenance of the Project. Agency may perform acquisition of the necessary right of way and easements for construction and maintenance of the Project, provided Agency (or Agency's consultant) are qualified to do such work as required by the State's Right of Way Manual and have obtained prior approval from State's Region Right of Way office to do such work.
19. Regardless of who acquires or performs any of the right of way activities, a right of way services agreement shall be created by State's Region Right of Way office setting forth the responsibilities and activities to be accomplished by each party. State shall always be responsible for requesting project funding, coordinating certification of the right of way, and providing oversight and monitoring. Funding authorization requests for federal right of way funds must be sent through the State's Region Right of Way offices on all projects. All projects must have right of way certification coordinated through State's Region Right of Way offices (even for projects where no federal funds were used for right of way, but federal funds were used elsewhere on the Project). Agency should contact the State's Region Right of Way office for additional information or clarification.
20. State shall review all right of way activities engaged in by Agency to assure compliance with applicable laws and regulations. Agency agrees that right of way activities shall be in accord with the Uniform Relocation Assistance & Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, FHWA Federal-Aid Policy Guide, State's Right of Way Manual and the Code of Federal Regulations, Title 23, Part 710 and Title 49, Part 24.
21. If any real property purchased with federal-aid participation is no longer needed for the originally authorized purpose, the disposition of such property shall be subject to applicable rules and regulations, which are in effect at the time of disposition. Reimbursement to State and FHWA of the required proportionate shares of the fair market value may be required.
22. Agency insures that all Project right of way monumentation will be conducted in conformance with ORS 209.155.
23. State and Agency grants each other authority to enter onto the other's right of way for the performance of the Project.

AGENCY OBLIGATIONS

FINANCE

24. Federal funds shall be applied toward Project costs at the current federal-aid matching ratio, unless otherwise agreed and allowable by law. Agency shall be responsible for the entire match amount, unless otherwise agreed to and specified in the intergovernmental agreement.
25. Agency's estimated share and advance deposit.
- a) Agency shall, prior to commencement of the preliminary engineering and/or right of way acquisition phases, deposit with State its estimated share of each phase. Exception may be made in the case of projects where Agency has written approval from State to use in-kind contributions rather than cash to satisfy all or part of the matching funds requirement.
 - b) Agency's construction phase deposit shall be 110 percent of Agency's share of the engineer's estimate and shall be received prior to award of the construction contract. Any additional balance of the deposit, based on the actual bid must be received within forty-five (45) days of receipt of written notification by State of the final amount due, unless the contract is canceled. Any unnecessary balance of a cash deposit, based on the actual bid, will be refunded within forty-five (45) days of receipt by State of the Project sponsor's written request.
 - c) Pursuant to ORS 366.425, the advance deposit may be in the form of 1) money deposited in the State Treasury (an option where a deposit is made in the Local Government Investment Pool, and an Irrevocable Limited Power of Attorney is sent to the Highway Finance Office), or 2) an Irrevocable Letter of Credit issued by a local bank in the name of State, or 3) cash.
 - d) Agency may satisfy all or part of any matching funds requirements by use of in-kind contributions rather than cash when prior written approval has been given by State.
26. If the estimated cost exceeds the total matched federal funds available, Agency shall deposit its share of the required matching funds, plus 100 percent of all costs in excess of the total matched federal funds. Agency shall also pay 100 percent of the cost of any item in which FHWA will not participate. If Agency has not repaid any non-participating cost, future allocations of federal funds, or allocations of State Highway Trust Funds, to that Agency may be withheld to pay the non-participating costs. If State approves processes, procedures, or contract administration outside the Local Agency Guidelines that result in items being declared non-participating, those items will not result in the withholding of Agency's future allocations of federal funds or the future allocations of State Highway Trust Funds.

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27. Costs incurred by State and Agency for services performed in connection with any phase of the Project shall be charged to the Project, unless otherwise mutually agreed upon.
28. If Agency makes a written request for the cancellation of a federal-aid project; Agency shall bear 100 percent of all costs as of the date of cancellation. If State was the sole cause of the cancellation, State shall bear 100 percent of all costs incurred. If it is determined that the cancellation was caused by third parties or circumstances beyond the control of State or Agency, Agency shall bear all development costs, whether incurred by State or Agency, either directly or through contract services, and State shall bear any State administrative costs incurred. After settlement of payments, State shall deliver surveys, maps, field notes, and all other data to Agency.
29. Agency shall follow requirements of the Single Audit Act. The requirements stated in the Single Audit Act must be followed by those local governments and non-profit organizations receiving \$500,000 or more in federal funds. The Single Audit Act of 1984, PL 98-502 as amended by PL 104-156, described in "OMB CIRCULAR NO. A-133", requires local governments and non-profit organizations to obtain an audit that includes internal controls and compliance with federal laws and regulations of all federally-funded programs in which the local agency participates. The cost of this audit can be partially prorated to the federal program.
30. Agency shall make additional deposits, as needed, upon request from State. Requests for additional deposits shall be accompanied by an itemized statement of expenditures and an estimated cost to complete the Project.
31. Agency shall present invoices for 100 percent of actual costs incurred by Agency on behalf of the Project directly to State's Liaison Person for review and approval. Such invoices shall identify the Project and Agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Billings shall be presented for periods of not less than one-month duration, based on actual expenses to date. All billings received from Agency must be approved by State's Liaison Person prior to payment. Agency's actual costs eligible for federal-aid or State participation shall be those allowable under the provisions of Title 23 CFR Parts 1.11, 140 and 710. Final billings shall be submitted to State for processing within three (3) months from the end of each funding phase as follows: 1) award date of a construction contract for preliminary engineering (PE) 2) last payment for right of way acquisition and 3) third notification for construction. Partial billing (progress payment) shall be submitted to State within three (3) months from date that costs are incurred. Final billings submitted after the three months shall not be eligible for reimbursement.
32. The cost records and accounts pertaining to work covered by this Agreement are to be kept available for inspection by representatives of State and FHWA for a period of six (6) years following the date of final voucher to FHWA. Copies of such records and accounts shall be made available upon request. For real property and equipment, the retention period starts from the date of disposition (Title 49 CFR 18.42).

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33. State shall request reimbursement, and Agency agrees to reimburse State, for federal-aid funds distributed to Agency if any of the following events occur:
- a) Right of way acquisition or actual construction of the facility for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which the federal-aid funds were authorized;
 - b) Right of way acquisition is undertaken utilizing federal-aid funds and actual construction is not started by the close of the twentieth fiscal year following the fiscal year in which the federal-aid funds were authorized for right of way acquisition.
 - c) Construction proceeds after the Project is determined to be ineligible for federal-aid funding (e.g., no environmental approval, lacking permits, or other reasons).
34. Agency shall maintain all Project documentation in keeping with State and FHWA standards and specifications. This shall include, but is not limited to, daily work records, quantity documentation, material invoices and quality documentation, certificates of origin, process control records, test results, and inspection records to ensure that projects are completed in conformance with approved plans and specifications.

RAILROADS

35. Agency shall follow State established policy and procedures when impacts occur on railroad property. The policy and procedures are available through State's appropriate Region contact or State's Railroad Liaison. Only those costs allowable under Title 23 CFR Part 646, subpart B and Title 23 CFR Part 140, subpart I, shall be included in the total Project costs; all other costs associated with railroad work will be at the sole expense of Agency, or others. Agency may request State, in writing, to provide railroad coordination and negotiations. However, State is under no obligation to agree to perform said duties.

UTILITIES

36. Agency shall follow State established Statutes, Policies and Procedures when impacts occur to privately or publicly-owned utilities. Only those utility relocations, which are eligible for federal-aid participation under, the FAPG, Title 23 CFR 645A, Subpart A and B, shall be included in the total Project costs; all other utility relocations shall be at the sole expense of Agency, or others. State will arrange for utility relocations/adjustments in areas lying within jurisdiction of State, if State is performing the preliminary engineering. Agency may request State in writing to arrange for utility relocations/adjustments lying within Agency jurisdiction, acting on behalf of Agency. This request must be submitted no later than twenty-one (21) weeks prior to bid let date. However, State is under no obligation to agree to perform said duties.

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37. The State utility relocation policy, procedures and forms are available through the appropriate State's Region Utility Specialist or State Utility Liaison. Agency shall provide copies of all signed utility notifications, agreements and Utility Certification to the State Utility Liaison.

STANDARDS

38. Agency agrees that design standards for all projects on the National Highway System (NHS) and the Oregon State Highway System shall be in compliance to standards specified in the current "State Highway Design Manual" and related references. Construction plans shall be in conformance with standard practices of State for plans prepared by its own staff. All specifications for the Project shall be in substantial compliance with the most current "Oregon Standard Specifications for Highway Construction".
39. Agency agrees that minimum design standards for non-NHS projects shall be recommended AASHTO Standards and in accordance with the current "Oregon Bicycle and Pedestrian Plan", unless otherwise requested by Agency and approved by State.
40. Agency agrees and will verify that the installation of traffic control devices shall meet the warrants prescribed in the "Manual on Uniform Traffic Control Devices and Oregon Supplements".
41. All plans and specifications shall be developed in general conformance with the current "Contract Plans Development Guide" and the current "Oregon Standard Specifications for Highway Construction" and/or guidelines provided.
42. The standard unit of measurement for all aspects of the Project shall be English Units. All Project documents and products shall be in English. This includes, but is not limited to, right of way, environmental documents, plans and specifications, and utilities.

GRADE CHANGE LIABILITY

43. Agency, if a County, acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.
44. Agency, if a City, hereby accepts responsibility for all claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.
45. Agency, if a City, by execution of Agreement, gives its consent as required by ORS 373.030(2) to any and all changes of grade within the City limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the project covered by the Agreement.

CONTRACTOR CLAIMS

46. Agency shall, to the extent permitted by state law, indemnify, hold harmless and provide legal defense for State against all claims brought by the contractor, or others resulting from Agency's failure to comply with the terms of this Agreement.
47. Notwithstanding the foregoing defense obligations under Paragraph 46, neither Agency nor any attorney engaged by Agency shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that Agency is prohibited from defending the State of Oregon, or that Agency is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against Agency if the State of Oregon elects to assume its own defense.

MAINTENANCE RESPONSIBILITIES

48. Agency shall, upon completion of construction, thereafter maintain and operate the Project at its own cost and expense, and in a manner satisfactory to State and FHWA.

WORKERS' COMPENSATION COVERAGE

49. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability Insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its contractors complies with these requirements.

LOBBYING RESTRICTIONS

50. Agency certifies by signing the Agreement that:
- a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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- b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.
- d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31, USC Section 1352.
- e) Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Paragraphs 36, 37, and 48 are not applicable to any local agency on state highway projects.



5 COPY
CAMPBELL M. GILMOUR
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

May 9, 2013

Board of Commissioners
Clackamas County

Members of the Board:

Approval of an Intergovernmental Agreement (Agreement No. 28603) between Oregon Department of Transportation (ODOT), Clackamas County and Hood River County for Partnership in the Mt. Hood Multimodal Transportation Plan

| | |
|--|---|
| Purpose/Outcomes | Intergovernmental Agreement with ODOT for Mt. Hood Multimodal Transportation Plan project |
| Dollar Amount and Fiscal Impact | The Department of Transportation and Development is contributing \$10,000 to the \$280,000 project. |
| Funding Source | Road Fund |
| Safety Impact | Project identifies priority road safety improvement projects along Hwy 26. |
| Duration | Shall begin when all required signatures are obtained and terminates on February 28, 2014 |
| Previous Board Action | None |
| Contact Person | Karen Buehrig, Transportation Planning Supervisor 503 742-4683 |

BACKGROUND:

For the past year, Clackamas County has worked with the project partners on developing a work program for the Mt. Hood Multimodal Plan. Attached is the Intergovernmental Agreement (IGA) to undertake the Mt. Hood National Forest Multimodal Plan. The "Project Partners" are those entities with land use or transportation authority in the region and include ODOT, United States Forest Service, Mount Hood National Forest, Clackamas County and Hood River County. The Project Partners will be working together to complete this planning project over the next year. The Project Partners have commissioned and developed the project charge to focus this planning effort on achievable outcomes in two areas: Highway Safety and Travel Options.

Focusing planning on strategies to increase travel options (including various types of transit and programs), to reduce peak travel demand and to address highway safety has the potential to improve the travel experience, enhance safety and travel times, and forestall the need for the addition of lanes to the highway.

The IGA includes a contribution from Clackamas County in the amount of \$10,000. This funding will come from the Road Fund. The total project cost is estimated to be \$280,000, of which ODOT is responsible for \$200,000, Hood River County is responsible for \$5,000 and FHWA has contributed \$65,000.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the attached Intergovernmental Agreement (Agreement No. 28603).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Bezner". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mike Bezner, PE
Transportation Engineering Manager

**INTERGOVERNMENTAL AGREEMENT
Mt. Hood Multimodal Transportation Plan**

THIS AGREEMENT is made and entered into by and between the State Of Oregon, acting by and through its Department of Transportation, hereinafter referred to as "ODOT," Clackamas County, acting by and through its elected officials, hereinafter referred to as "Clackamas," Hood River County, acting by and through its elected officials, hereinafter referred to as "Hood River," all herein referred to individually or collectively as "Parties." Clackamas and Hood River shall collectively be referred to as "Partners."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local or federal government for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.
2. This Agreement is entered into by ODOT and the Partners pursuant to the provisions of 23 USC 204 and the Forest Highway Regulations issued jointly by the Secretary of Transportation and the Secretary of Agriculture.
3. ODOT and the Partners entered into Cooperative Agreement #23586 on April 19, 2007 which covered the Parties' roles and responsibilities in establishing the scope, schedule, and budget required for the development of a Mt. Hood Multimodal Transportation Plan. This Agreement documents the revised understanding the Parties have reached regarding the steps necessary to coordinate the development of a Mt. Hood Multimodal Transportation Plan (MHMTP) for the Mt. Hood Highway (US 26-OR 35) corridor in the greater Mt. Hood area.
4. ODOT has entered into a Personal Services Contract – Architectural, Engineering and Land Surveying and Related Services, Price Agreement (PA) Number 27453, Work Order Contract (WOC) #11 with consultant David Evans and Associates, Inc., hereinafter referred to as "Consultant." Said contract is incorporated herein and by this reference made a part hereof. The scope of work to be performed by Consultant includes studies, assessments and assistance with development of a transportation plan for the Mt. Hood Highway/US26-OR 35 corridor.
5. All Parties will benefit from this coordination. ODOT has jurisdiction over the state highway system and is responsible for its management and operation. Clackamas and Hood River counties have jurisdiction over land uses along the corridor and the county roads accessing the highway.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, the Partners agree that ODOT has obtained Consultant to provide services for the development of the Mt. Hood Multimodal Transportation Plan (MHMTP) hereinafter referred to as "Project." The Statement of Work for the Project is attached hereto, marked Exhibit A, and by this reference made a part hereof.
2. Consultant has been selected by ODOT, pursuant to the process established by ORS 279C.125 and Oregon Administrative Rule (OAR) 137-048-0260, to perform the Project. ODOT will pay the Consultant, in accordance with ODOT OBLIGATIONS, Paragraph 1 of this Agreement. Partners have the option to review invoices in accordance with PARTNER OBLIGATIONS Paragraph 7. It is the intent of the Parties that ODOT will enter into a personal services contract directly with Consultant, and ODOT will manage and direct the Consultant's work in accordance with this Agreement.
3. The Project shall be conducted as a part of the Federal-Aid Surface State Planning and Research Program (SPR), Title 23, United States Code. The total Project cost that will be paid to the Consultant is estimated at \$280,000 which is subject to change.
 - a. ODOT shall pay a contribution in the estimated amount of \$200,000 towards the Project. These funds do not include the matching funds listed in subsections (b) (c) and (d) below.
 - b. Clackamas shall be responsible for matching funds in the amount of \$10,000.
 - c. Hood River shall be responsible for matching funds in the amount of \$5,000.
 - d. The Federal Highway Administration (FHWA) has transferred to ODOT, through the FHWA Oregon Division Office, the amount of \$65,000 towards the Project. The fund transfer document is attached hereto, marked Exhibit D, and by this reference made a part hereof.
4. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate on February 28, 2014 unless extended by the Parties.

PARTNER OBLIGATIONS

1. A MHMTP Project Management Team consisting of designated staff from each Party shall coordinate the development of the plan.

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2. A MHMTP Project Leadership Group shall have decision-making authority for the MHMTP and shall consist of the ODOT Region 1 Manager, Clackamas County Board Commissioner, and Hood River County Board Commissioner.
3. Each Party shall be invited to participate in the Travel Options Working Group and Highway Safety Working Group and any other committees formed throughout the process, as necessary.
4. Partners shall coordinate reviews and response within their respective agencies. Clackamas County and Hood River County shall serve as *primary liaisons* to the City of Sandy and City of Hood River and rural communities within their respective counties.
5. Each Partner's Project Management Team liaison shall ensure that the participating agencies are informed of relevant transportation planning and project activities ongoing within their respective agencies during the development of the MHMTP.
6. Partners shall strive to forge consensus for a recommended suite of improvement projects and programs and for a feasible implementation strategy/action plan including a program for long term on-going coordination for transportation planning within the Mt. Hood corridor.
7. Partners will have the opportunity to review the invoices if they choose to do so. Partners are not obligated to review and approve all invoices but have the option to review the invoices if they think the deliverables are not being met according to the scope, schedule, and budget provided in Exhibit A. A Partner will notify ODOT if they would like to review an invoice. Otherwise, ODOT will review and pay the invoices as per ODOT OBLIGATIONS Paragraph 1.
8. Partners certify, at the time this Agreement is executed, that sufficient funds from Partners' budget allocations are available and authorized for expenditure to pay the costs of the Project.
9. If the Parties determine that another personal services contractor(s) is necessary to accomplish any work described in Exhibit A along with Consultant, then the Partners and ODOT shall follow a similar process as described in Terms of Agreement, paragraph 2, of this Agreement, to select the contractor.
10. The Partners acknowledges and agrees that the State of Oregon, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Parties which are directly pertinent to the specific agreement for the purpose of

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making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.

11. Each Partner certifies and represents that the individual signing this Agreement has been authorized to enter into and execute this Agreement on behalf of that Partner, and to legally bind Partner.

ODOT OBLIGATIONS

1. In consideration for the services performed under this Agreement, and upon receipt of monthly reimbursement requests with invoices and supporting documentation that were approved by Parties, ODOT shall review for approval and make payment to Consultant for the full invoice amount, less ineligible costs. Said payment shall be within forty-five (45) days of receipt by ODOT of the Project invoices. Invoices shall be presented for periods of not less than one (1) month duration, based on actual expenses incurred. ODOT will make payment directly to the Consultant.
2. ODOT shall keep accurate cost accounting records of all Project costs and shall provide Project updates and copies of Project payments to the Partners upon request.
3. ODOT's obligation shall not exceed \$200,000 for consultant fees. ODOT certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within ODOT's current appropriation or limitation of the current biennial budget.
4. ODOT's Project Manager for this Project is Mike Mason, 123 NW Flanders Street, Portland, OR 97209, 503-731-8246, michael.w.mason@odot.state.or.us, or assigned designee upon individual's absence. ODOT shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of all Parties.
2. ODOT may terminate this Agreement effective upon delivery of written notice to the Partners, or at such later date as may be established by ODOT, under any of the following conditions:
 - a. If a Partner or Partners fail to provide services or payment of their share of the cost called for by this Agreement within the time specified herein or any extension thereof, after notice and a reasonable opportunity to cure.

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- b. If a Partner or Partners fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within ten (10) days or such longer period as ODOT may authorize. This includes a Partner or Partners failure to participate in good faith to complete the goals of the Project.
 - c. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to pay for the work provided in this Agreement.
 - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or ODOT is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against ODOT or a Partner with respect to which the other Party may have liability, the notified Party must promptly notify the other Parties in writing of the Third Party Claim.
5. With respect to a Third Party Claim for which ODOT is jointly liable with a Partner or Partners (or would be if joined in the Third Party Claim), ODOT shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the Partner or Partners in such proportion as is appropriate to reflect the relative fault of ODOT on the one hand and of the Partner or Partners on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT on the one hand and of the Partner or Partners on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT had sole liability in the proceeding.
6. With respect to a Third Party Claim for which a Partner or Partners is jointly liable with ODOT (or would be if joined in the Third Party Claim), the Partner or Partners shall contribute to the amount of expenses (including attorneys' fees), judgments,

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finer and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT in such proportion as is appropriate to reflect the relative fault of the Partner or Partners on the one hand and of ODOT on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the Partner or Partners on the one hand and of ODOT on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Parties' contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

7. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
8. As federal funds are involved in this Agreement, EXHIBITS B and C are attached hereto and by this reference made a part hereof and are hereby certified to by Parties representative.
9. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
10. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it and agree to be bound by its terms and conditions.

SIGNATURE PAGE TO FOLLOW

**CLACKAMAS COUNTY, by and through
its elected officials**

By _____
Title _____
Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By *[Signature]*
Clackamas County Attorney
Date 4/30/13

**HOOD RIVER COUNTY, by and through its
elected officials**

By _____
Title _____
Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Hood River County Attorney
Date _____

Clackamas County Contact:
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**STATE OF OREGON, by and through
its Department of Transportation**

By _____
Region 1 Manager
Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General
Date _____

ODOT Contact:
Mike Mason
123 NW Flanders Street
Portland, OR 97209
(503) 731-8246
michael.w.mason@odot.state.or.us

EXHIBIT A

**STATEMENT of WORK (“SOW”) and DELIVERY SCHEDULE
 for**

WOC # 11 under PA # 27453

Project Name: Mt. Hood Multimodal Transportation Plan ~ Mt. Hood Hwy to US 26 and OR 35

| | | | |
|---|--|---|--|
| Name: Address: Phone: Fax: Email: | Agency Project Manager (“APM”) Sonya Kazen 123 NW Flanders St. Portland, OR, 97209-4012 (503) 731-8282 (503) 731-8259 Sonya.b.Kazen@odot.state.or.us | Name: Address: Phone: Fax: Email: | Consultant’s Project Manager (“PM”) Elizabeth Mros-O’Hara ~ AICP 2100 SW River Parkway Portland, OR 97201 (503) 449-0351 (503) 223-2701 exm@deainc.com |
|---|--|---|--|

A. PROJECT DESCRIPTION and OVERVIEW of SERVICES

Agency is contracting with Consultant for Services in connection with the Mt. Hood Multimodal Transportation Plan project for Mt. Hood Highway/US 26 and OR 35 (the “Project”):

Mt. Hood is a unique place and an economic driver for Oregon. The Mt. Hood National Forest (“MHNF”) provides year-round recreation opportunities for Portland Metro residents, as well as for regional and national visitors. The Mt. Hood Highway-US 26 and OR 35 is a Statewide National Highway System (“NHS”) highway that provides access to the MHNF and to rural communities adjacent to the forest in Clackamas and Hood River counties, and that serves as a primary route to central Oregon and the Columbia River Gorge. The highways are also important freight routes for local as well as statewide hauling. The Mt. Hood Highway is a designated National Scenic Byway, and provides access to an abundance of natural, cultural and historic resources.

The “Project Partners,” i.e., those entities with land use or transportation authority in the region include: ODOT, the United States Forest Service (“USFS”), the MHNF, Clackamas County and Hood River County. The Project Leadership Group (“PLG”) comprised of the ODOT Region 1 Manager, the USFS-MHNF Supervisor, a Hood River County Commissioner and a Clackamas County Commissioner has commissioned and developed the Project Charge. The PLG decided to focus this planning effort on achievable outcomes in two areas: Highway Safety and Travel Options. The PLG recognizes that these two focus areas are inter-related.

Highway Safety

US 26 between Sandy and OR 35 is an ODOT-designated Highway Safety Corridor due to the relatively high volume of crashes. While peak travel times occur in both winter and summer, the highest numbers of crashes occur in the winter during inclement weather. The Agency has been working with other state and local government agencies to increase education and enforcement along the Safety Corridor, and has focused scarce transportation improvement funding on safety and preservation projects. There are also specific safety concerns along OR 35 north of the US 26/OR 35 junction.

Travel Options

Highway mobility often exceeds *Oregon Highway Plan* mobility standards during peak travel periods. Previous planning efforts identified the provision of travel options (for example, transit, intelligent

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transportation systems (ITS), carpooling, and traveler information) as a key way to enhance traveler access and reduce peak travel demand.

Focusing planning on strategies to increase travel options, including various types of transit and programs to reduce peak travel demand and to address highway safety has the potential to improve the travel experience, enhance safety and travel times, and forestall the need for the addition of lanes to the highway.

PROJECT CHARGE

The PLG agreed upon the following Project Charge: Based on guidance outlined in the 2009 Omnibus Public Lands Bill and from the Oregon Transportation Commission, in partnership with the Project Partners, and in cooperation with the Federal Highway Administration (“FHWA”) - Western Federal Lands Highway Division, the goal is to develop a transportation plan for the Mt. Hood Highway/US 26-OR 35 corridor to and through the northern portion of the MHNH.

This planning effort will target affordable and achievable solutions by focusing on: (1) improving highway safety for all users, and (2) expanding travel options year round to enhance mobility and access to recreation and rural communities.

STUDY AREA

The primary study area includes the Mt. Hood Highway US 26-OR 35 corridor in the MHNH Zigzag and Hood River ranger districts, including the urban unincorporated community of Government Camp and rural communities located east of the City of Sandy and south of the City of Hood River. For the assessment of transit and travel options, the study area will expand to include the gateway cities of Sandy, Hood River, Gresham, Troutdale, and the Portland Metro area.

Assumptions:

- Agency will deliver the USFS/CH2MHill *Final Mt. Hood Transit and Travel Alternatives Study (“FS Study”)* and all appendices with supporting documentation to Consultant with or before transmitting the Notice to Proceed. The Final FS Study for this Project includes:
 1. Lists of potential projects (transit, parking, Intelligent Transportation System (“ITS”), Transportation Demand Management (“TDM”), carpool) with potential for implementation within short term.
 2. Identification of next steps, one of which is the need for a governing structure and potential funding mechanisms, and which next steps do not include current transit ridership data, project cost estimates or construction project recommendations.

Acronyms and Definitions

| | |
|---|--------------------------------|
| Agency, ODOT – Oregon Dept. of Transportation | NTP – Notice to Proceed |
| APM – Agency’s Project Manager | ORS – Oregon Revised Statute |
| BOC – Breakdown of Costs | PA – Price Agreement |
| CPFF – Cost Plus Fixed Fee | PLG – Project Leadership Group |
| DBE – Disadvantaged Business Enterprise | PM – Project Manager |
| FP – Fixed Price | PMT – Project Management Team |
| MWESB – Minority, Women & Emerging Small Businesses | SOW – Statement of Work |
| NTE – Not to Exceed | TWG – Technical Work Group |

B. STANDARDS and GENERAL REQUIREMENTS

The standards and general requirements applicable to this WOC are stated in the parent PA. In addition to those stated in the PA, the "Reference Standards and Procedural Guidance Applicable To ODOT Professional Services and Related Services Projects" (as may be revised from time to time) is at the following Internet address and are incorporated by this reference with the same force and effect as if fully set forth herein:

<http://www.oregon.gov/ODOT/CS/OPO/AE.shtml#Resources> (select Standard-A&E/Related Services)

C. REVIEW, COMMENT and SCHEDULE OVERVIEW

- Consultant shall distribute deliverables to the APM and to the Project Management Team ("PMT"), which includes staff from the Project Partner agencies. Consultant shall provide draft deliverables for preliminary review to the APM three (3) working days prior to any distribution to the PMT. Consultant shall distribute Agency-reviewed deliverables to the PMT a minimum of three (working days) prior to distribution to the PLG or Technical Working Group ("TWG"), as indicated in each Task Narrative.
- Consultant shall provide draft documents for review to the PMT, PLG or TWG a minimum of five (5) working days prior to any of the committee meetings.
- Agency and each Project Partner agency shall provide one (1) set of consolidated, non-conflicting comments for their respective agency to the Consultant within ten (10) working days following receipt of draft or within five (5) work days following a committee meeting.
- Consultant shall revise draft deliverables based on input from the PMT, TWG, or PLG, or all of them, as indicated by the APM.

D. FORMAT REQUIREMENTS

- Consultant shall submit all deliverables to Agency in electronic format via email (and hard copy if requested).
- All written deliverables must include the Project name, a title that refers to the contract deliverable, draft number, subtask number and date of preparation.
- Each draft and final text-based or spreadsheet-based deliverable must be provided in MS Office 2007 editable file formats (i.e., MS Word, Excel, etc.) and include redline/strikeout format as drafts are revised.
- Consultant shall submit all final written and graphic products in .PDF format; they must be reproducible as handouts for broad distribution without loss of clarity.
- Consultant final plan documents may not include: Consultant names and logos or ODOT logos or Project codes in the headers and footers, or graphics, etc. These items are limited to the acknowledgement page.
- Consultant shall provide APM with one (1) electronic and one (1) hard copy of all final deliverables produced during this Phase One SOW.
- Additional format requirements may be listed with specific tasks/deliverables throughout the SOW or in the PA.

The Consultant must address the complexities of this Project, which include multiple Project Partners that may have varying degrees of interest, responsibility, and commitment to implementation of multimodal plan elements. Currently, there exists a multitude of potential travel options, with varying degrees of appeal to the Project Partners. To avoid studying travel options that are of lesser or no interest to Agency and the Project Partners, the Consultant may use a two-phase scoping process.

In Phase One, the Consultant shall assess the benefits and opportunities of different travel options and mechanisms and shall outline various scenarios in a technical memo. The memo shall contain information

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regarding the process, constraints, management framework and other aspects needed to plan, implement and maintain each scenario. The memo must provide enough information for the Project Partners, as a group, to determine which scenarios to pursue further using the remainder of the Project budget and effort.

In Phase Two, the Consultant shall take the priorities identified in Phase One and more fully assess the requirements needed to bring each priority to fruition, including alternative scenarios. By approaching the Project in this way, the Project Partners will not spend time and resources on options that are not agreed-upon priorities. The Consultant shall scope Phase Two at the end of Phase One, once the PLG has agreed on priorities for Phase Two.

Phase Two includes the Consultant deliverables listed under Task 1.4 below. Phase One takes slightly over half the total budget amount, plus contingencies, allocated for the Project, leaving the remainder of the allocation for Phase Two.

This WOC SOW focuses on Consultant services; however, the roles and support provided by the Agency and Project Partners are shown as a necessary context for successfully completing the work. The obligations of entities in this statement of work other than the Consultant and Agency are merely stated for informational purposes and are in no way binding, nor are the named entities parties to this WOC. Any tasks or deliverables assigned to a subcontractor is construed as the responsibility of the Consultant.

E. TASKS, DELIVERABLES and SCHEDULE

Unless the WOC is terminated or suspended, Consultant shall complete all tasks and provide all deliverables (collectively, the "Services") included in this Phase One SOW in accordance with the performance requirements and delivery schedule included in this WOC. The overall delivery schedule for Phase One is as follows:

- Task 1 Deliverables/Schedule: Months 1-5 after NTP
- Task 2 Deliverables/Schedule: Months 1-2 after NTP
- Task 3 Deliverables/Schedule: Months 1-4 after NTP
- Task 4 Deliverables/Schedule: Months 3-5 after NTP

TASK 1 - PROJECT MANAGEMENT

The Consultant PM shall lead, manage and monitor the progress of Consultant's work towards completion of the SOW. The Consultant shall prepare and maintain a Project file that includes Consultant, Agency and committee contacts, communications protocol, quality control ("QC") procedures, cost controls, budget breakout structure for tracking and control purposes, and change management procedures.

Unless otherwise specified within each subtask, the Consultant shall:

- Supervise and coordinate Project Services and Consultant staff; establish and monitor any sub-consultant contracts.
- Prepare and monitor the work plan, budget and schedule.
- Prepare and update user-friendly Project schedule that includes tasks, target dates, and decision points throughout the Project.
- Participate in weekly telephone check-in with APM. PMT members will be invited to participate.
- Lead internal Consultant project team meetings.
- Maintain Project file to include computations, assumptions, meeting summary notes, working drawings, correspondence, and APM and review comments and memoranda. Make file available to APM upon request.

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- Establish and maintain an interactive, web-based program to facilitate review of draft materials by the PMT.
- Coordinate production and quality control efforts.
- Prepare monthly progress reports and billing invoices per WOC deliverables.

Unless otherwise specified, the APM will:

- Participate in weekly Consultant-APM teleconference check-ins.
- Provide one set of non-contradictory Agency comments on draft Consultant deliverables.
- Keep Agency management, Oregon Transportation Commission and elected officials informed of Project progress and communicate issues to the PMT.

1.1 Project Management

The Consultant shall provide labor, equipment and materials to manage and coordinate the Services in this WOC, including i) managing the Consultant's Project team, ii) scheduling, coordinating and supervising the tasks, and iii) serving as liaison between and coordinator for the Agency and the PMT. The Consultant shall prepare a Project schedule with key milestones and submittal dates for deliverables, and provide at least one update as requested by Agency. The Consultant shall also provide an interactive web-based program (e.g., *Basecamp*) to facilitate review of draft materials by the PMT.

Assumptions: Phase 1 will last approximately five months. If the Project requires more time to complete, an amendment will be processed to provide additional Project management time.

Consultant Deliverables:

- Project schedule in MS-Project within two weeks from NTP and updates as requested by Agency.
- Project management interactive website within three weeks from NTP.

1.2 Monthly Invoices and Status Reports

The Consultant shall provide administration of the tasks associated with the Project in this WOC, including:

- Monitor the budget and expenditures against each task.
- Provide input for preparing the monthly Project status report for submittal with each billing invoice. The status report must include a summary description of the work performed during the previous month.
- Provide an estimated percent of work completed for each task in the WOC each month.
- Provide a breakdown of expenses.

The Consultant shall prepare monthly billing invoices in a format approved by the APM for this WOC. Each billing invoice must include a Project status report that summarizes the activities completed during that month. The Consultant shall submit progress status reports and invoices, including a breakdown of expenses, electronically by the 20th of each month to the ODOT Procurement Office (OPO) at OPOContractInvoices@odot.state.or.us with a copy via e-mail to the APM, and the Region 1 office at Region1ContractInvoices@odot.state.or.us for tracking purposes.

Assumptions:

Phase One will contain five (5) invoicing cycles.

Consultant Deliverables:

Consultant shall provide monthly electronic billing invoices and progress reports (PDF via email).

1.3 Project Management Plan

The Consultant shall provide a Project Management Plan addressing QC procedures and change management protocol for the Project. The Project Management Plan must delineate roles and responsibilities of the Consultant team and Agency and PMT, and must define the process for conflict resolution between the Consultant team and Agency and PMT.

Consultant Deliverables:

- Draft Project Management Plan submitted to Agency for review and comment within two (2) weeks from NTP. Agency will return one set of consolidated, non-conflicting comments.
- Final Project Management Plan within 7 business days from receipt of comments.

1.4 Phase Two Amendment

The Consultant shall work with the APM to provide a WOC amendment for implementation of Phase Two. Phase Two must include development of alternatives/scenarios, costs, and a selection and implementation plan for the identified priorities:

- Analysis of the priority highway safety options and travel options strategies selected by the PLG. (The Consultant shall coordinate the analysis with the Highway ITS project that ODOT is developing for the corridor outside of this Project.)
- A Value Analysis/Choosing-by-Advantages ("VA/CBA") decision-making process to identify the preferred package of solutions for Highway Safety Options and Travel Options.
- Additional facilitation using Systematic Development of Informed Consent ("SDIC") strategies, where appropriate.
- Communications between TWG, PMT, and PLG, as well as creating and posting web updates.
- An implementation plan that includes: funding, programmatic and operations strategies, and follow-up work as necessary to develop Project Partner consensus and commitment on implementation of the preferred solutions package from the VA/CBA process. The implementation plan must also include identification and assistance with any regulatory amendments required to implement solutions; an action plan for implementation of options requiring ongoing Project Partner coordination and periodic evaluation; and a recommendation for elements to include in a Memorandum of Understanding ("MOU") between Project Partners clarifying roles and commitments.
- The Draft and Final Mount Hood Multimodal Transportation Plan, that includes short- and long-term solutions to be implemented in near-, mid-, and long-term timeframes. (Baseline conditions and analysis from Phase One must be included in the plan.)

Assumptions: Results from Phase One Services will define the areas where the Consultant shall focus analysis in Phase Two of the Project. This approach is intended to result in efficiencies intended to keep the overall planning cost for both phases within the total budget allotted (\$280,000).

Task 1 Consultant Deliverables:

As requested by Agency, the Consultant shall develop the Phase Two scope and budget to include in the Statement of Work for the Amendment to this WOC that includes the following tasks and deliverables:

- Analysis of the priority highway safety options and travel options strategies selected by the PLG.
- A VCBA decision-making process.
- Additional facilitation using SDIC strategies.
- Communications with TWG, PMT, and PLG, as well as web updates.
- An implementation plan.
- Draft and Final Mount Hood Multimodal Transportation Plan.

Task 1 Schedule: Months 1 -5 after NTP

TASK 2 - COMMUNICATIONS PLAN AND KICKOFF MEETINGS

This task includes the Project Partners and Stakeholders' Involvement Plan and the PLG and PMT kickoff meetings (PMT Meeting #1 and PLG Meeting #1). Other than the two kickoff meetings and contingency Impasse Resolution Sessions, the individual meetings are described under the individual tasks they are supporting, in chronological order.

Project Group Meetings by Task and Chronology

| Chronological Order (Top to Bottom) | Task 2 Communication and Project Kickoff | Technical Working Group ("TWG") | Project Management Team ("PMT") | Project Leadership Group ("PLG") | |
|-------------------------------------|---|---|---|--|---|
| | | | | PMT #1 Kickoff- Project Introduction, Schedule, Decision Points, Involvement Plan, and Phases. Prepare for PLG #1. | |
| | | | | PLG #1 Kickoff – USFS Study Presentation, Project Introduction, Schedule, Decision Points, Phases. | |
| | Task 3 Establish and Confirm Baseline Conditions | TWG #1 Combined Travel Options and Hwy Safety – Confirm Baseline Conditions, Discuss Values/Priorities. | | | |
| | | | PMT #2 Review and confirm baseline conditions, identify specific range of alternatives (options). | | |
| | Task 4 Screen Alternatives for Phase Two Analysis | | | PMT #3 Review, develop, refine matrix rankings of values/priorities and measures and prepare for PLG Meeting #2. | |
| | | | | | PLG #2 Project update, review of Baseline Conditions, discuss and rank values and measures related to options. |
| | | TWG #2 Combined Groups – review of Implementation Framework Memorandum. Discussion of technical aspects and needs for PMT and PLG meetings. | | | |
| | | | PMT #4 Review Implementation Framework Memo, and needs for PLG. | | |
| | | | | | PLG # 3 review Implementation Framework Memo/Matrix combined with priorities/values. Screen out options for Phase Two analysis. |
| | | PMT #5 Discuss outcomes from PLG Meeting #3 and needs for PLG #4. | | | |
| | | | | PLG # 4 prioritize remaining options to determine which options to focus on in Phase Two. | |

Note: Ongoing communication with Agency will occur throughout the project. Additional meetings may be required and are counted as contingent tasks.

2.1 Partners and Stakeholders Involvement Plan

The Consultant shall design a Project Partners and stakeholders decision-making process that results in Involvement Plan alternatives and a prioritized package of achievable projects that are supported by the Project's diverse stakeholders and the Project Partners. To meet this goal, the Consultant shall develop a Partners and Stakeholders Involvement Plan that includes and addresses the following PMT, PLG, and TWG processes: i) identification of committees' membership, ii) roles and responsibilities, and iii) protocols for conflict resolution, internal/external project messaging, and committee and stakeholder meetings. In the meetings component, the Consultant shall include expected outcomes, stakeholder involvement activities, public information, web and media components, committee roles and responsibilities, protocols for communications with the media, a schedule for communication components, and mechanisms for breaking impasses between Project Partners as described in Contingency Task C.1. The Consultant shall communicate the established Project milestones for input and required response timelines for Project Partner decisions.

The Consultant shall perform the following Services:

1. Review project background and current planning and public engagement efforts by Project Partners.
2. Conduct up to six (6) hours of interviews with PMT members and Agency for input into plan.
3. Provide one draft and one final Partners and Stakeholders Involvement Plan for Phase One.
4. Confer with PMT to provide all historical documentation, identification of project participants and community groups, information on Agency and Partners' media and web process, and staff representatives for involvement in the Plan development.
5. Keep records of communication and stakeholder engagement throughout the process for inclusion in Phase Two, final Multimodal Transportation Plan report and for federal Title VI documentation.
(Note: This deliverable is not specific only to this task, but is relevant to all tasks.)

Unless otherwise specified below within each subtask, throughout Phase One the Consultant shall:

- Prepare agendas, present information, and lead discussions PMT, TWG and PLG meetings. Consultant PM and appropriate Consultant team members shall attend these meetings based on agendas, as shown in the following tasks.
- Prepare summaries for TWG meetings.
- Prepare technical content for public project webpage and outreach materials.
- Document communication and stakeholder engagement throughout the Phase One process for inclusion in the Phase Two Final Multimodal Transportation Plan report and for federal Title VI documentation.

Unless otherwise specified, throughout Phase One APM will:

- Handle logistics for all committee meetings, and schedule project presentations at community events, survey activities, etc. Logistics include room scheduling, distributing committee meeting materials, announcements, agendas and summaries, and reproducing materials for distribution.
- Document invitees in attendance at committee meetings.
- Participate in the PMT, and in the TWG in both the Travel Options and Highway Safety Subgroups,
- Serve as the liaison between the Consultant, Agency and PMT, and attend public meetings.
- Prepare summaries of PMT and PLG meetings.
- Distribute project information materials including articles to the local media, and identify agency point of contact for media inquiries.

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- Create and regularly update a project page on the ODOT website, and coordinate with Project Partners to link to their web pages. Materials to post include public information, online surveys, meeting notices and outreach event agendas and minutes, maps, technical reports, and draft and final documents produced in Phase One.
- Respond to citizen requests for project information.
- Keep records of communication and stakeholder engagement throughout the Phase One process for inclusion in the Phase Two Final Multimodal Transportation Plan report and for federal Title VI documentation.

Assumptions:

- APM will confer with Project Partners to provide all historical documentation, identification of Project participants and community groups, information on Agency and Project Partners' media and web process, and contact and other information regarding staff representatives for involvement in the multimodal plan development (with the exception of related projects that the Consultant or Kittleson & Associates, Inc., have completed or are working on with the Project Partners and ski areas).
- Agency and PMT will review the draft Partners and Stakeholders Involvement Plan. Each Partner agency staff will return one set of consolidated, non-conflicting review comments for their respective agency.
- APM will contact the Tribes with interests in the study area to determine their desired level of participation on the Project, and will serve as their liaison to the Project.
- APM and PMT will provide documentation in a format agreed-upon by the Consultant and Agency of each Partner Agency's communications with stakeholders to the Consultant.

Consultant Deliverables:

- Draft Project Partners and Stakeholders Involvement Plan for Phase One.
- Final Project Partners and Stakeholders Involvement Plan for Phase One.

2.2 PMT and PLG Phase One Kickoff Meetings (#1)

a. Kickoff Meeting/PMT Meeting #1

The Consultant shall schedule, prepare for and facilitate the Phase One Kickoff Meeting/PMT Meeting #1, during which the Consultant shall outline the Project and process, including project scope, schedule, coordination with other plans, outreach to partners, engagement and decision points, and summary of Phase One/Phase Two scope approach, including stakeholder and Project Partner involvement, advisory and decision-making processes.

Consultant shall utilize the comments and feedback from the PMT meeting to prepare for the subsequent PLG kick-off meeting.

Consultant Deliverables:

- PMT meeting agenda and meeting materials
 - Summary graph of Project schedule including PMT engagement and PLG engagement and decision points.
 - Graphic of process for Stakeholder, PMT and TWG input to the PLG.

Schedule: Meeting date to be scheduled within one week from NTP.

Agency Deliverable

Agency will prepare the PMT meeting summary.

b. Kickoff Meeting/PLG Meeting #1

Consultant shall schedule, prepare for and attend Kickoff Meeting/PLG Meeting #1 during which the Forest Service shall present findings of the *Mt Hood Transit Options and Transportation Demand Management Study* to Project Partners and stakeholders. The Consultant shall outline the Project and process (assumes NTP is received at least one week prior to kickoff meeting), including the Project schedule with PLG engagement and decision points, and summary of Phase 1/Phase 2 scope approach including stakeholder and Project Partner involvement, advisory and decision-making processes.

Consultant Deliverables:

- PLG meeting agenda and meeting materials
 - Summary graph of Project schedule including PLG engagement and decision points.
 - Graphic of process for Stakeholder, PMT and TWG input to the PLG.

Schedule: Meeting date to be schedule within two weeks from NTP.

Agency Deliverable

Agency will prepare the PLG meeting summary.

Task 2 Schedule: Months 1-2 after NTP

TASK 3 ESTABLISH AND CONFIRM BASELINE CONDITIONS

The Consultant shall determine existing and future baseline conditions by utilizing and augmenting, as necessary, information compiled for the FS Study, the two completed ODOT Mt. Hood Highway Road Safety Audits (US 26 Camp Creek to Timberline (2009) and US 26-OR 35 Timberline to Nottingham (2012)) and other plans.

The Agency will provide data and gather additional data on transit ridership and operations, and case studies. The Agency will also gather updated crash data.

The Consultant shall conduct a data gap analysis to identify data needs in addition to the USFS *Mt. Hood Transit and Travel Alternatives Study*, the US 26 – OR 35 Road Safety Audits, and other plans, that are necessary for completion of this Task. The Consultant shall analyze the collected data to determine existing issues and areas in need of further analysis in Phase Two.

3.1 - Baseline Conditions for Travel Options

The Agency will provide data and information on existing travel options and proposed services and programs in matrix format. In addition, the Agency will provide electronic copies of data and case studies for review.

The Consultant shall summarize data, perform a data gap analysis, shall coordinate with Agency to obtain additional key data, and shall conduct a preliminary analysis.

3.1.1 – Inventory of Existing and Proposed Transit, Parking, Transportation Demand Management Strategies, and Visitor Information Systems

Agency will perform this Task. The resulting data is a key piece required for the Consultant to complete the overall plan. The Agency will incorporate the data from the FS Study and gather additional information for an inventory of existing and proposed services and programs (public and private), including, but not limited to:

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1. Bus service for the general public within the primary study area, (e.g., Mountain Express, Columbia Area Transit ("CAT"), and through/connecting /intermodal transit services (TriMet, CAT, SAM, Amtrak, Portland International Airport, and Oregon Breeze).
2. Bus service to ski areas and the type of riders they serve (snow recreationists, lodgers, employees) provided by private companies, including Fusion, Grease Bus, Sea-to-Summit, Mt. Hood Meadows, Ski-Bowl-Collins Lake Shuttle, Timberline Employee Shuttle, and major charter bus services).
3. Provider and operator, levels of service, fares and costs, vehicles types and fleet, marketing programs, ridership and trends, and operating costs for all transit services within the study area.
4. Current and projected visitation data to the major recreational destinations on Mt. Hood to determine annual, monthly, and peak season ridership for all existing transit service to Mt. Hood, if available.
5. Park-and-ride lots within the primary study area and in neighbor cities (Sandy, Hood River, Gresham, and Troutdale).
6. Carpool matching programs (public and private).
7. Ski area and USFS incentive programs to reduce peak hour travel demand and encourage transportation alternatives to driving.
8. Inventory of current parking supply, usage by visitors versus employees, and fees, including parking lot/Sno Park capacity, usage, user fees, and maintenance costs within primary study area in MHNH and Government Camp, and for proposed Mt. Hood Meadows and Timberline parking expansions. This includes the ski areas parking lot maintenance costs, and costs to design, plan, and construct additional parking areas.
9. Recreational travel patterns (seasonal, daily, weekday versus weekend) and other general travel patterns on the corridor.
10. Existing transit/multimodal traveler information systems and data sources.
11. Additional proposed Mt. Hood transit and park and rides (Clackamas Co. Mt. Hood Aerial Tram Feasibility Study, Ski Areas' Memorandum of Understanding, Government Camp Community Plan, MHNH TAG Report (2009), Mt Hood Transit Feasibility Study (1999) and other studies as determined by the PMT.
12. Current travel mode split (Mt. Hood Meadows Twilight Parking Lot EIS, Timberline Molly's Base Draft TIS) to the major ski areas.

3.1.2 - Data Coordination and Assembly

The Consultant shall review the Mt. Hood inventory and case study information with Agency to identify any missing data points. The Agency will obtain additional data as needed and determined by the review.

Assumptions:

Agency

- Agency will assemble, inventory and provide all data to the Consultant for Tasks 3.1.1 within 30 days of Notice to Proceed.
- Agency will gather additional data necessary for the Phase One analysis in Task 3.1.

Consultant Deliverables

Review of inventory provided by Agency and itemized list of additional data needs.

3.1.3 Site Visit

Consultant shall perform site visits and web-site visits to survey and understand current conditions such as: parking access, supply, and configurations; transit access and staging in parking lots, and pedestrian and bicycle access to these venues. Consultant shall also view MHNH Sno-Parks, pedestrian and bicycle facilities and roadway and parking lot crossing issues, access to existing transit

stops in Clackamas County (Hood River does not have fixed-route transit service in the study area); bicycle facilities and safety issues; wayfinding and visitor information infrastructure and programs.

Assumptions:

Two (2) Consultant staff will conduct in-depth visits to relevant sites to examine transit staging, bicycle, pedestrian access to transit, wayfinding, parking and other facilities, particularly near trailheads throughout the study corridor; and three (3) staff will conduct a shorter site visit to view the conditions in the study corridor.

3.1.4 Summarize Existing and Proposed Services Data

Consultant shall prepare a written summary of the data inventoried in Task 3.1.1 and the site visit findings for inclusion in the Draft Baseline Conditions Memorandum.

Consultant Deliverables:

- Written itemization of additional data point needs.
- Written summary of data inventoried in Task 3.1.1 and the site visits.

3.2 Baseline Conditions for Existing and Future Highway Demand and Safety Conditions to be Utilized to Evaluate and Measure Success of Travel Options

The Consultant shall evaluate existing highway safety conditions for all modes, based on data and findings prepared by Agency.

3.2.1 Collect and Assemble Travel and Travel Mode Split Data

The Consultant shall compile data on existing and projected traffic volumes for the Mt. Hood Highway within the study corridor, and shall establish future background traffic projections utilizing current/recent data from available sources (Agency, Clackamas and Hood River counties, traffic studies, Metro, etc.). Consultant shall refine the data for Year 2011 base year; and shall prepare link volume projections for 20-year future background conditions using travel demand model output from the in-process Clackamas County Transportation System Plan ("TSP") Update, I-84 IAMPs and the City of Hood River TSP (2011). Available data includes 2011 daily travel patterns, monthly trips, annual trips, peak winter trips, and peak summer trips for automobiles, and mode split by vehicle and person, if available. Consultant shall determine travel volumes for alternative modes (pedestrian and bicycle) based on this data. The Consultant shall combine this data with data on transit ridership from Task 3.1.1 to determine estimated mode split.

Assumptions:

Consultant:

- Can assemble existing data prepared by the consultant team for related projects (Clackamas TSP Update, Mt Hood Meadows Twilight Parking Lot EIS, Timberline's Molly's Base Area - US 26 Traffic Impact Study).
- Will have ready access to count data and link volumes from Metro 2035 travel demand model.
- Can determine best estimate of person mode split based on travel data available (Metro, ski areas, transit providers, etc.). Data available determines the level of certainty of the estimate of person mode split.

Agency:

- And Partners will assemble and provide all remaining available data to the Consultant for Tasks 3.2 electronically, or if not available electronically, in hard copy, within 30 days of NTP.
- If additional data is determined to be necessary for the Phase One analysis, the Agency will research the data.

Consultant Deliverables:

- Summary of current and forecast travel volumes and patterns.
- Estimated mode split based on data gathered in Tasks 3.2.1 and 3.1.1.

3.2.2 Assemble Highway Crash History Data and Recent Program/Safety Projects

The Agency will assemble highway crash history data and inventory highway conditions and controls for Consultant using the most recent complete five years of crash data in an electronic format compatible with Microsoft Excel (e.g., .csv file) from the Agency online database.

Assumption:

- Agency will collect and summarize all crash data, including 2011 data if available.
- Consultant will provide available crash data from the Clackamas County TSP update, including 2007 through 2010 crash data, geocoded in GIS and Excel-readable formats to ODOT.

The following sub tasks are important work efforts performed by the Agency to provide essential, required information and data for the overall plan.

Inventory Safety Projects – (No Consultant Work)

The Agency will inventory safety projects recommended in the in-process Clackamas County TSP Update, adopted Hood River County TSP/OR 35 Corridor Plan, the two Mt. Hood Highway US 26-OR 35 Road Safety Audits (“RSA”), and programmed safety projects. Agency will provide a summary of changes in conditions (implemented safety and betterment projects) during the five-year crash data collection period and the changes in safety performance resulting from their implementation. The Agency will also inventory programmed, but not yet constructed safety projects in the study corridor.

3.2.3 Summarize Crash Data for the Corridor

This task is the primary responsibility of the Agency.

Consultant shall incorporate findings from an Agency-provided memorandum into the Mt. Hood Multimodal Baseline Conditions Memorandum.

The Agency will utilize the data collected in Tasks 3.2.2 and 3.2.3 for existing safety performance at critical segments in the study corridor. Agency will calculate a critical crash rate or threshold value for each site (using the Highway Safety Manual Part B) and compare it to the observed crash rate. Segments with an observed crash rate greater than their critical crash rate are deemed critical segments, and flagged for further investigation. Agency will identify any discrepancies in the findings between recent crash data and those for the highway segments covered in the two RSAs, ODOT Road Departure Safety Implementation Plan, and the Clackamas TSP Update. The Agency will summarize the results in a short memorandum.

Consultant shall provide up to two (2) staff to attend a safety threshold methodology meeting with ODOT staff to determine the safety threshold that would trigger the need for further evaluation potential improvements for specific intersections or segments which could be conducted in Phase Two.

Agency Deliverables:

- Prepare a memorandum summarizing crash data and trends and provide with raw data sheets to the Consultant.
- Attend safety threshold methodology meeting.

Consultant Deliverables:

- Prepare written summary of safety findings that cover safety performance for critical intersections and segments, current projected travel data, and estimated mode split by person for alternative modes to be incorporated into the Baseline Conditions Memorandum.
- Up to two (2) Consultant staff shall attend safety threshold methodology meeting with Agency staff.

3.3 Data Gap Analysis - Assessment

Consultant shall perform a Data Gap Analysis and Assessment based on the summary of data in Tasks 3.1 and 3.2 to determine whether and where there are major gaps in information that will help determine the performance of the corridor and the existing travel options and safety concerns. Baseline conditions and issues must be presented to the TWG and the PMT to elicit input on issues and data that are relevant to understanding the baseline conditions and what may still be needed.

3.4 Case Studies/Best Practices

The Consultant shall use case studies from the FS Study, augmented with supplemental case study data gathered by Agency, to understand best practices implemented elsewhere. The Consultant shall prepare a Case Studies/Best Practices Memorandum that incorporates the FS Study findings and supplements with the supplemental data regarding management structure, governance, business plans, and funding needs for travel options. The Case Studies/Best Practices Memorandum will establish examples and best practices for implementation of various travel options in the Mt. Hood corridor.

Agency Deliverable:

Agency will obtain supplemental case study information by contacting up to six (6) coordinated programs at similar recreational destinations that were explored in the FS Study and will provide results in matrix format.

Consultant Deliverable:

Consultant shall prepare a written Case Study/Best Practices Memorandum based on the FS study and supplemental case study information (provided by Agency) for incorporation into the Draft Baseline Conditions Memorandum.

3.5 Baseline Conditions Memorandum and Power Point

The Baseline Conditions Memorandum establishes the existing conditions for service and programs, safety, current and projected travel, and identified issues based on these conditions. The Consultant shall analyze the information gathered and assimilated in previous tasks and develop findings to inform the potential for future travel options and highway safety solutions. Consultant shall use this analysis to draft the memorandum.

- Consultant shall summarize findings from inventory of existing and proposed service programs, case studies, and existing plans and policies in report format to create the first section(s) of a Baseline Conditions Report.
- Consultant shall draft Analysis/Findings Section of Baseline Conditions Report (including highway safety issues, mode split, transit travel patterns, case studies and implications for Mt. Hood multimodal travel options).
- Based on direction from the PMT, the Consultant shall develop a specific list of preliminary alternatives and options to be analyzed in the Alternatives Framework Technical Memorandum (Task 4).

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- Consultant shall create the Baseline Conditions Memorandum and prepare a summary Power Point presentation.

Consultant Deliverables:

- Draft Baseline Conditions Memorandum and PowerPoint slides in electronic form.
- Final Baseline Conditions Memorandum and PowerPoint slides in electronic form.

Agency Deliverables:

Agency and Partners shall each provide one consolidated set of consistent comments on the Draft Baseline Conditions Report.

3.6 Communication Tasks for Baseline Conditions

Communications for this task include framing the Project for both the stakeholders and the public to manage expectations for the processes in Phase One and Phase Two. The TWG shall meet for Meeting #1 and the PMT shall meet for Meeting #2.

The Consultant shall convene a joint TWG made up of previously involved stakeholders and other subject matter experts as needed to assist in review of baseline conditions and identification of data gaps that need to be addressed. Combining travel options and highway safety groups ensures that all parties are receiving and discussing the same information. As determined necessary by the Consultant, there may be breakout sessions for technical discussions of travel options and highway safety or other issues. The Agency is the point of contact for the Tribes and Agency will work to identify the Tribes' preferred method of involvement in the process.

3.6.1 Technical Working Group Meeting #1.

The Consultant shall prepare for and facilitate one TWG meeting that combines both the travel options and highway safety sub-groups to confirm baseline conditions (including data needs and issues). Consultant shall also lead the TWG through an exercise to identify and prioritize TWG meeting members' priorities for value analysis.

Consultant shall facilitate the meeting and prepare written summary.

Assumptions:

- TWG will draw from the members of the newly formed Mt. Hood Transportation Alliance that worked on the USFS study, as well as other technical staff as identified by Agency and Partners. The meeting will be held in Sandy or Government Camp.
- Agency will conduct logistics for TWG meeting, including identifying venue and distributing information to participants.

Consultant Deliverables:

- Agenda and materials for TWG meeting.
- Written meeting summary to APM within 5 days following meeting.

3.6.2 PMT Meeting #2

The Consultant shall prepare for and facilitate one (1) PMT meeting to review and confirm baseline conditions, process clarification, and to begin discussing PMT values and concerns for the corridor. The meeting will also allow the Consultant to begin to identify a specific range of alternative actions and changes ("Range of Alternatives") to be considered for exploration in Phase Two.

Assumptions:

- Agency will determine the meeting site and provide notification for PMT meeting and distribute materials to attendees.
- PMT meeting will be held in Portland at DEA or ODOT Region 1.
- Agency is responsible for documenting PMT meeting and distributing summaries to team.

Consultant Deliverables:

- Agenda and materials for PMT Meeting #2 in electronic form.
 - Powerpoint of Baseline Conditions and concerns.
 - Values/Measures discussion materials.
 - Range of Alternatives in matrix format.

Agency Deliverables:

PMT Meeting #2 meeting logistics and summary.

3.6.3 Webpage Content

Provide text for one graphics-based project update for the Project website that outlines the issues being examined and the process to reach conclusion.

Assumptions:

- Agency will format and upload the Project update to Agency website and will coordinate with Partner agencies to provide links to Project web documents.
- Agency will maintain Project website.

Consultant Deliverables:

One 1- to 2-page Project update for website due as determined by the APM in the Project plan update at the start of Task 3.

Agency Deliverables:

Format Project update and upload it to Project website.

Task 3 Schedule: Months 1-4 after Notice to Proceed

TASK 4 - SCREEN ALTERNATIVES FOR PHASE TWO ANALYSIS

Successful implementation of any alternative depends on its technical merits; policy implications and the level of political, agency, and stakeholder support; level of complexity; cost to implement; and cost to sustain. The results of this task are intended to assist the PMT and PLG in determining the most promising options to be explored in detail in Phase Two of this Project.

The Consultant shall undertake two major tasks to assist the PMT and PLG in determining which options should move forward into Phase Two: (1) developing an Alternatives Implementation Framework Technical Memorandum, and (2) reviewing PMT, PLG, and stakeholder values early, using Choosing-by-Advantages principles. The outcome will illuminate the most important values for the decision-makers, and will show how the options compare based on preliminary analysis of the Baseline Conditions and the Implementation Framework Technical Memorandum.

4.1 Preliminary Value Analysis – Summary Analysis Related to Travel Options and Highway Safety

The preliminary value analysis must be based on the Choosing-by-Advantages principles, whereby the participants (PMT and PLG) identify major values and goals that can be tied back to the potential options using measurable differences in performance. The analysis will help the PMT and PLG rank the issues in order of importance and how potential solutions address those issues. The Consultant shall lead the PMT and PLG through an exercise to clarify priorities.

It is anticipated that a more thorough/detailed value analysis exercise will be applied to the most promising alternatives after a more rigorous analysis in Phase Two.

Based on data gathered in Task 3 (Baseline Conditions, Case Study), interviews with Project Partners, stakeholders, and on the Consultant's professional knowledge, the Consultant shall identify key values

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that apply to travel options and highway safety in the corridor. Using these values and options, Consultant shall develop measures to determine how well each potential action in the Range of Alternatives conforms to the values. This will set the priorities and feed into the process to rank the alternatives.

The Consultant shall further develop the matrix with input from the PMT, at PMT Meeting #2, to determine preliminary values and preliminary rankings of values. The Consultant shall discuss with the PMT the agenda for further ranking and evaluation at PLG Meeting #2. (These meetings are included in Task 4.3.)

The Consultant shall combine the value analysis with the Implementation Framework to help prioritize and screen out potential options and to move forward with Phase Two.

Consultant Deliverables:

- Preliminary values matrix with measures to compare different options.
- Revised values matrix that incorporates PMT input, including refinement and ranking of values and refinement of measures.
- Final values matrix, based on PLG input on value ranking and measures, in electronic form.

4.2 Implementation Framework Memorandum ("IFM")

The Consultant team shall develop a memorandum and matrix detailing the steps necessary to implement the identified elements in the Range of Alternatives (including program management requirements).

The Consultant shall review and summarize parameters for successful implementation of travel options and highway safety improvements. In order for the Agency to direct the Consultant regarding which travel options to focus on for feasible implementation, the Consultant team shall compile, analyze, and summarize the parameters necessary for the successful implementation of each of the major travel options: bus transit service, aerial tram, park-and-ride facilities and intermodal hubs, travel reduction strategies (limiting parking and/or parking management) and/or FS user fees, carpool, marketing tools, lift ticket strategies, and traveler information), and highway safety options.

The parameters include management/organizational/governance/regulatory structure that must be in place (i.e., framework to operate ongoing public transit service, transportation management association, new public parks and rides etc.), i) complexity of additional planning/study needed to further evaluate the option ii) complexity of construction/implementation, and iii) complexity of political implementation, operating requirements, necessary funding, and maintenance requirements. The Consultant shall summarize these issues in a matrix that provides a comparison of the implementation needs for each option.

The matrix must demonstrate the complexity of implementing each option. It also provides an order of magnitude scale of the cost associated with implementation of the options. This must include complexity of planning, permitting, designing, and constructing, as well as ongoing operations and maintenance costs of an option.

The IFM must describe the major conditions that must be in place for successful implementation of travel options, based on the characteristics of each option. For example, a public bus transit system option requires an entity to operate and maintain the service and capital facilities. The framework analysis must be based on the team's technical expertise; input from stakeholders, the TWG, and the PMT; and the case studies of successful systems elsewhere. The Consultant shall present the framework for travel option implementation to the PMT and PLG early in the Project. The required framework for implementation is a deciding factor on which travel options should be explored in depth to determine feasibility for implementation in Phase Two.

Consultant Deliverables:

- Matrix comparing implementation complexity for different travel, safety and ITS options in electronic format. This includes order of magnitude construction and operating and maintenance costs for comparison purposes.
- Matrix relating options to preliminary value analysis and identified measures.
- Draft Implementation Framework Memorandum in electronic form.
- Final Implementation Framework Memorandum in electronic form.

Agency Deliverables:

- PMT review and comment on matrix prior to PLG meeting.
- Project Partners shall provide one consolidated set of consistent comments from their agency on the Implementation Framework Memorandum.
- PLG shall select priorities for Phase Two analysis.

4.3 Communications Tasks for Screening and Prioritizing Alternatives

The Consultant shall provide the following Services:

1. Conduct up to twelve (12) interviews with PMT and PLG to confirm and augment previously accepted values, alternatives, and information still needed to create an environment that will lead to decision on travel option priorities, includes follow-up conversations.
2. Conduct up to three (3) stakeholder small groups meetings for input on travel options.
3. Develop online survey for posting by Agency and run reports.
4. Develop text for postcard and media release to promote online survey.
5. Conduct up to three (4) meetings with jurisdictional staff to discuss highway safety and travel options in relation to jurisdiction TSPs, transit agency plans and the Mt Hood National Forest Plan.
6. Develop and implement internal survey of PMT and PLG members to identify support levels for different identified alternatives.
7. Prepare for and facilitate three (3) PMT meetings:
 - a. PMT Meeting #3 to review and further develop and refine the value analysis matrix rankings of values and measures of options in relation to the values. The meeting outcome helps develop the agenda for the PLG meeting on the value analysis.
 - b. PMT Meeting #4 to review Implementation Framework Technical Memorandum. Discussion of any additional needs for upcoming PLG meeting.
 - c. PMT Meeting #5 to discuss outcomes of PLG Meeting #3, to address any questions, and to develop strategy for PLG Meeting #4.
8. Prepare for and facilitate one (1) TWG meeting:
 - a. TWG Meeting #2 to review Implementation Framework Technical Memorandum, and to discuss of any additional needs for PMT and PLG meetings.
9. Prepare for and facilitate three (3) PLG meetings:
 - a. PLG Meeting #2 to review where we are in the process and results of baseline conditions analysis, and to discuss and rank values and measures related to options.
 - b. PLG Meeting #3 to review Implementation Framework Memorandum combined with values for range of alternatives and to determine which options can be removed from consideration for Phase Two analysis.
 - c. PLG Meeting #4 to review to prioritize remaining options and determine which options to focus on in Phase Two.

Assumptions

1. Agency will assist in setting up interviews and stakeholder meetings as needed.
2. Agency will document PMT and PLG meetings.
3. Agency will post all updates and survey information to web.

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4. Agency will provide access for Consultant to run survey reports.
5. Agency and Project Partners will coordinate on-line links to the online survey.
6. Agency will coordinate postcard design and distribution.
7. TWG meetings include breakout sessions of Travel Options and Highway Safety subgroups to discuss detailed subject matter, if necessary.
8. Agency will distribute draft of Prioritization of Options Memorandum (See Task 4.4) and collect comments from project Partners.
9. Agency will provide one combined set of comments from Project Partners for draft documents and one final document.
10. Agency will upload project update to project website.
11. Agency will finalize and distribute media release.

Consultant Deliverables

1. One (1) TWG meeting agenda and summary.
2. One (1) draft online survey for Agency posting and uploading to Agency website.
3. One (1) survey report.
4. Up to three (3) stakeholder meeting summaries.
5. Draft text for survey promotion postcard.
6. Draft text of media release.
7. PowerPoint presentation for Project Partners' use in constituent/commission meetings.
8. One (1) Project update for Agency website to present priorities and next steps in the process.

Agency Deliverables

1. Write and distribute PMT meeting summaries.
2. Write and distribute PLG meeting summaries.
3. Post online survey.
4. Design and distribute promotional postcard.
5. Finalize and distribute media release to promote online survey.
6. Project Partners will each provide one (1) consolidated set of comments from their respective agency on the Draft Prioritization of Options Memorandum.

4.4 Prioritization of Options Memorandum

The Consultant shall prepare a Memorandum to document the prioritization process that includes an analysis of Baseline Conditions, Values, and Measures; Implementation Framework Issues; and PLG, PMT, TWG, and stakeholder input. The memo must summarize the outcomes of the two PLG workshops, which involve both screening options out and ranking options to focus on the most promising solutions that are achievable and consistent with the groups' values.

Consultant Deliverables:

- Draft Options Prioritization Memorandum in electronic format.
- Final Options Prioritization Memorandum in electronic format.

Schedule: Due dates to be determined by APM at the start of Task 4.

Agency Deliverables:

Project Partners each shall provide one consolidated set of comments from its agency on the Draft Options Prioritization Memorandum.

Task 4 Schedule: Months 3-5 after Notice to Proceed

CONTINGENCY TASKS

C1.0 - Impasse Resolution Sessions. (CONTINGENCY TASK)

Contingency Task C1.0 identifies specific deliverables that Agency, in its discretion, may elect to authorize Consultant to produce. Consultant shall only complete Contingency Task C1.0 and the identified deliverables pursuant to written (e-mail acceptable) NTP issued to Consultant by Agency. A separate NTP is required to authorize Contingency Task C1.0. The NTE amount for completing this contingency task is \$10,216 and is only billable if Consultant is authorized to complete Contingency Task C1.0 per NTP.

Consultant shall assist to resolve issues between Project Partners when there is an impasse in making decisions regarding which alternatives should be moved forward for further analysis, and other issues that threaten to obstruct the progress of the planning work and implementation of solutions. These contingent sessions cover issues that cannot be resolved in the regular PMT, TWG and PLG meetings and project discussions. Consultant shall work with key individuals or groups of individuals and in up to two (2) formal sessions. Consultant shall:

- Interview Partners and team members, and plan for and prepare for formal, facilitated sessions.
- Facilitation of up to two (2) formal sessions of up to 4 hours each.
- Follow up with Partners.
- Summarize resolutions to issues.

Deliverables/Schedule: Due dates to be determined by APM at the time of Contingency Task NTP.

C2.0. - Additional Meetings – (CONTINGENCY TASK)

Contingency sub Tasks C2.1, C2.2 and C2.3 identify specific deliverables that the Agency, in its discretion, may elect to authorize Consultant to produce. Consultant shall only complete Contingency sub Tasks C2.1, C2.2 and C2.3 and the identified deliverables pursuant to written (e-mail acceptable) NTP issued to Consultant by Agency. A separate NTP is required to authorize Contingency sub Tasks C2.1, C2.2 or C2.3. The NTE amount for completing this Contingency Task is \$14,385 and is only billable if Consultant is authorized to complete Contingency sub Tasks C2.1, C2.2 and/or C2.3 per NTP.

There may be need for additional TWG, PMT, and/or PLG meetings to work through the screening of Project priorities. In the TWG meetings, members explore the technical aspects of the Highway Safety and/or Travel Options conditions and strategies. In the PMT meetings, members explore the technical aspects, as well as policy aspects associated with the alternatives, the strategy for screening alternatives, and preparation for PLG meetings. In the PLG meetings, members clarify technical issues, discuss the Implementation Framework Memorandum, and work through the screening process.

C2.1- Up to Two (2) Additional Technical Working Group Meeting(s)

Consultant Deliverables:

1. Up to two (2) TWG meeting agendas and summaries.
2. Attend and facilitate up to two (2) TWG meetings.
3. Prepare for up to two (2) TWG meetings.

C2.2- Up to Two (2) Additional Project Management Team Meeting(s)

Consultant Deliverables:

1. Up to two (2) PMT meeting agendas.
2. Attend and facilitate up to two (2) PMT meetings.
3. Prepare for up to two (2) PMT meetings.

Agency Deliverables:

1. Write and distribute PMT meeting summaries.
2. Schedule PMT meetings.

C2.3 - Up to Two (2) Additional Project Leadership Group Meeting(s)

Consultant Deliverables:

1. Up to two (2) PLG meeting agendas.
2. Attend and facilitate up to two (2) PLG meetings.
3. Prepare for up to two (2) PLG meetings.

Schedule: Due dates to be determined by APM at the time of Contingency Task NTP.

Agency Deliverables:

1. Write and distribute PLG meeting summaries.
2. Schedule PLG meetings.

F. CONTINGENCY TASKS

The table below is a summary of contingency tasks that Agency, at its discretion, may authorize Consultant to perform. Details of the contingency tasks and associated deliverables are stated in the Task section of the SOW. Consultant shall complete only the specific contingency task(s) identified and authorized via written (email acceptable) Notice-to-Proceed ("NTP") issued by Agency's APM. If requested by Agency, Consultant shall submit a detailed cost estimate for the agreed-to contingency Services (within the NTE amount(s) in the Contingency Task Summary Table) within the scope of the contingency task.

If Agency chooses to authorize some or all of these tasks, Consultant shall complete the authorized tasks and deliverables per the schedule identified for each task. The NTP will include the contingency task name and number, agreed-to due date for completion and NTE for the authorized contingency task.

Each contingency task is only billable (up to the NTE amount identified for the task) if specifically authorized per NTP. In the table below, the "NTE for Each" amount for a contingency task includes all labor, overhead, profit, and expenses for the task. The funds budgeted for contingency tasks may not be applied to non-contingency tasks without an amendment to the WOC. The total amount for all contingency tasks authorized shall not exceed the maximum identified in the table below. Each authorized contingency task must be billed as a separate line item on Consultant's invoice.

Contingency Task Summary Table

| Contingency Task Description | NTE for Each | Max Quantity | Method of Comp. | Total NTE Amount |
|---|--------------|--------------|-----------------|------------------|
| C.1.1 Impasse Resolution Sessions | \$10,216 | N/A | T&M | \$10,216 |
| C.2.1 Up to 2 Technical Work Group Meetings | \$ 4,927 | 2 | T&M | \$ 4,927 |
| C.2.2 Up to 2 Project Management Team Meetings | \$ 4,490 | 2 | T&M | \$ 4,490 |
| C.2.3 Up to 2 Project Leadership Group Meetings | \$ 4,967 | 2 | T&M | \$ 4,967 |
| Total NTE For All Contingency Tasks: | | | | \$24,601 |

G. ADDITIONAL PROVISIONS FOR WOCs

1. **Project Cooperation.** All Project Cooperation provisions, as detailed in Attachment 1 to PA Exhibit F, shall apply to this WOC. Consultant acknowledges that Agency may have separate contract(s) with other entities (i.e., contractors, consultants or governmental agencies) involved with the Project. Consultant shall support Agency's efforts to create and maintain a cooperative working relationship

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between and among other entities involved in the project, and their respective representatives, to further the interests of Agency to result in the Project being successfully completed on time and within budget.

This SOW describes the responsibilities of all entities involved in this project. Consultant shall only be responsible for those responsibilities and deliverables identified as being assigned to Consultant (or its subconsultants) in this WOC and the SOW. All work assigned to other entities, other than subconsultants, is not subject to this WOC, but shall be the subject of separate Intergovernmental Agreements or contracts which will contain the obligations of those entities. Any tasks or deliverables assigned to a sub-consultant shall be construed as being the responsibility of Consultant.

Any Consultant tasks or deliverables which are contingent upon receiving information, resources, assistance, or cooperation in any way from another entity (other than Subconsultants) as described in this SOW shall be subject to the following guidelines:

- (a) At the first indication of non-cooperation, Consultant shall provide written notice to ODOT WOC Administrator of the specific acts or inaction indicating non-cooperation and of any deliverables that may be delayed due to such lack of cooperation by other entities referenced in the SOW.
- (b) ODOT WOC Administrator shall contact the non-cooperative entity/s to discuss the matter and attempt to correct the problem and expedite items determined to be delaying Consultant/project.

If Consultant has followed the notification process described in section "a", and delinquency or delay of any deliverable is found to be a result of the failure of other referenced entities to provide information, resources, assistance, or cooperation, as described in the SOW, Consultant will not be found in breach or default with respect to delinquencies beyond any reasonable control of Consultant; nor shall Consultant be assessed or liable for any damages arising as a result of such delinquencies. Neither shall ODOT be responsible or liable for any damages to Consultant as the result of such non-cooperation by other entities. ODOT WOC Administrator will negotiate with Consultant in the best interest of the State, and may revise the delivery schedule to allow for delinquencies beyond any reasonable control of Consultant. Revised delivery dates beyond the expiration date require an amendment to the WOC.

- 2. **Key Persons.** All Key Persons provisions, as detailed in Attachment I to PA Exhibit F, shall apply to this WOC. Consultant acknowledges and agrees that Agency selected Consultant, and is entering into the WOC because of the special qualifications of Consultant's key personnel. In particular, Agency, through the WOC is engaging the expertise, experience, judgment and personal attention of the following Key Persons:

| Name | Role |
|-----------------------|--|
| Elizabeth Mros-O'Hara | Project Manager and Travel Options Planner |
| KC Cooper | Public Involvement Coordinator |
| Kevin Bracy | Senior Project Manager |

Each Key Person shall not delegate performance of any management powers or other responsibilities he or she is required to provide under the WOC to another of Consultant's or subconsultant's personnel without first obtaining the written consent of Agency. Further, Consultant shall not re-assign or transfer any Key Person to other duties or positions such that the Key Person is no longer available to provide Agency with his or her expertise, experience, judgment, and personal attention according to any schedule established under the WOC without first obtaining Agency's prior written consent to such re-assignment or transfer. Notification of request to change a Key Person shall be in writing (via email or other form as may be required by Agency).

3. **Staffing Adjustments.** Consultant may make necessary staffing adjustments (other than Key Personnel or Specified Staff) to the proposed staff {as shown in Consultant's Breakdown of Costs (BOC)} provided:

- the alternate staff are appropriately qualified to complete the assigned tasks,
- any changes do not exceed approved billing rate maximums for the classification, and
- Services can be completed without exceeding WOC (or task, if applicable) NTEs.

Consultant shall email notice to APM prior to implementing needed changes to staffing assignments.

H. COMPENSATION

The method(s) of compensation and payment option(s) selected below (and as specified for any Contingency Tasks in the table in Section F) are incorporated from Exhibit B to the PA. For additional detail and requirements regarding compensation methods, payment options, or Agency's right to withhold retainage, see PA - Exhibit B, Compensation. No compensation is provided to Consultant for negotiations, preparing or revising cost estimate for Services, or negotiating contracts with subcontractors. Note: Some tasks (e.g., Project Management) will be ongoing throughout the project; however, all tasks are only budgeted for the level of effort applicable to the current phase of the Project.

H.1 Non-Contingency Tasks

The method(s) of compensation for non-contingency tasks in this WOC is:

- Time and Materials with Not-To-Exceed ("T&M")

H. 2 Payment Options

The payment option for the Services in the attached SOW is:

- Monthly Progress Payments for acceptable and verifiable progress (For costs on CPFF or T&M);

H.3 Fixed Fee - Reserved

H.4 Total WOC NTE Amount

| | Compensation Summary Table | Amount |
|---|--|---------------------|
| 1. CPFF NTE Amount (not including Fixed-Fee) | NTE Amount for allowable costs of non-contingency Services in this WOC | N/A |
| 2. Fixed-Fee Amount | Total of Fixed-Fee amount(s) (for CPFF only) | N/A |
| 3. Fixed Price Amount | Total of Fixed Price amount(s) | N/A |
| 4. T&M NTE Amount | Total for any non-contingency Services | \$154,562.43 |
| 5. Price Per Unit NTE Amount | Total NTE for Price Per Unit Costs | N/A |
| 6. | Total Non-Contingency Amount: | \$154,562.43 |
| 7. | Total for Contingency Tasks (if any) per Section F above: | \$ 24,601.48 |
| | TOTAL NTE (line 6 plus line 7) This amount includes all direct and indirect costs, profit, Fixed Fee amount (if any) and contingency task costs (if any). | \$179,164.90 |

H.5 Invoices

Invoices must be in conformance with the ODOT Invoice Requirements Guide and any other PA requirements. The Invoice Requirements Guide is available on the Internet at:

<http://www.oregon.gov/ODOT/CS/OPO/docs/aepage/InvReq1.doc>

ODOT/Clackamas/Hood River
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Consultant shall submit invoices electronically via email to the ODOT Procurement Office (OPO) at OPOContractInvoices@odot.state.or.us with a copy to the APM Sonya Kazen at sonya.b.kazen@odot.state.or.us and the Region 1 office at Region1ContractInvoices@odot.state.or.us for tracking purposes.

H.6 Summary Report of Subcontractors Paid

Consultant shall submit (via fax, scanned and sent via e-mail, or hard copy delivery) a completed, signed "Summary Report of Subcontractor's Paid" 734-2722 (pdf) " form 734-2722 to APM certifying that payment was made to all certified and non-certified subcontractors or suppliers **(required for all Projects that include subs, regardless of funding or whether or not a DBE goal or MWESB Aspirational Target is assigned)**. The form is available from the Internet at: <http://www.odot.state.or.us/forms/odot/highway734/2722.pdf> or from the Office of Civil Rights at 503-986-4350. Submit the form when a progress or final payment has been made to each subcontractor or supplier or when any held retainage is returned to a subcontractor or supplier. Submit the form no later than the fifth day of each month following date payment was made to a subcontractor or supplier. At the completion of the Project, Consultant shall submit a final Summary Report of Subcontractors Paid form (marked as "FINAL REPORT") indicating the total amounts paid to all subcontractors and suppliers. APM will review the report, reconcile any discrepancies with Consultant, and forward to Region Civil Rights staff.

For purposes of Exhibits B and C, references to Department shall mean State, references to Contractor shall mean Consultant and references to Contract shall mean Agreement.

**EXHIBIT B
CONTRACTOR CERTIFICATION**

Contractor certifies by signing this Contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Contractor) to solicit or secure this Contract,
- (b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Contractor), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the Contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

DEPARTMENT OFFICIAL CERTIFICATION

Department official likewise certifies by signing this Contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this Contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

EXHIBIT C

Federal Provisions
Oregon Department of Transportation

CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

Contractor certifies by signing this Contract that to the best of its knowledge and belief, it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

EXCEPTIONS:

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this Contract, the Contractor is deemed to have signed this certification.

II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-PRIMARY COVERED TRANSACTIONS

1. By signing this Contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Department determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.
4. The Contractor shall provide immediate written notice to the Department if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400)

to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The Contractor agrees by entering into this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by entering into this Contract that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a

participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this Contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this Contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction",

"participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Contract is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this Contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a

prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by entering into this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

IV. EMPLOYMENT

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranting, Department shall have the right to annul this Contract without

liability or in its discretion to deduct from the Contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the Contract, any professional or technical personnel who are or have been at any time during the period of this Contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be entitled to rely on the accuracy, competence, and completeness of Contractor's services.

V. NONDISCRIMINATION

During the performance of this Contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this Contract. Contractor, with regard to the work performed after award and prior to completion of the Contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of

subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the Contract covers a program set forth in Appendix B of the Regulations.

2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this Contract, Contractor agrees as follows:
 - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.

- b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the Contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
- b. Cancellation, termination or suspension of the agreement in whole or in part.
6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor

may request Department to enter into such litigation to protect the interests of the State of Oregon.

VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

DBE POLICY STATEMENT

DBE Policy. It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this Contract.

Required Statement For USDOT Financial Assistance Agreement. If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

DBE Obligations. The Department and its Contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither Department nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the Contractor to carry out these

requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Department deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this Contract.

Records and Reports. Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet Contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the Contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

DBE Definition. Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

By signing this Contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Contract for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

VII. LOBBYING

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of *this certification* be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

FOR INQUIRY CONCERNING
DEPARTMENT'S DBE
PROGRAM REQUIREMENT
CONTACT OFFICE OF CIVIL
RIGHTS AT (503)986-4354.

FUND TRANSFER FROM FHWA

EXHIBIT D

| | | | | |
|---|--|---|--|--|
| FORM PR-2FH (8/73) | | U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION | | STATE Oregon |
| FOREST HIGHWAY PROJECT AGREEMENT (PPM 25-4) | | | COUNTY Clackamas and Hood River | PROJECT NO. Mt. Hood Multi-modal Transportation Plan |
| | | | This Agreement is entered into between the undersigned parties pursuant to the provision of 23 U.S.C. 204, and the Forest Highway Regulations issued thereunder jointly by the Secretary of Commerce and the Secretary of Agriculture, and in accordance with the terms of the Forest Highway Cooperative Agreement. | |
| FOREST Mt. Hood N.F. | PROJECT TERM Multiple Routes Planning | | | FOREST HIGHWAY ROUTE NO. multiple |
| KIND OF WORK Transportation planning | ESTIMATED COST OF PROJECT \$284,000 | | | PROJECT LENGTH (Miles) Multiple Routes Planning |
| | | FUNDS PROVIDED BY THIS AGREEMENT | | AGENCY TO PERFORM WORK <input type="checkbox"/> FEDERAL <input checked="" type="checkbox"/> COOPERATOR |
| | | COOPERATIVE 1* | | FEDERAL 2* |
| | | AMOUNT | BASIS OF PAYMENT <input type="checkbox"/> ADVANCE <input type="checkbox"/> REIMBURSEMENT <input type="checkbox"/> OTHER | AMOUNT \$65,000.00 |
| <p>*1. Entries may be omitted if cooperator performs work and assumes cost not covered by Federal funds. *2. No entry to be made if work is to be performed by Public Roads.</p> | | | | |
| SPECIAL PROVISIONS | | | | |
| <p>This agreement provides \$65,000.00 as the Forest Highway Program contribution to the MT Hood Multimodal Transportation Plan. Attached is a description of the transportation plan work.</p> <p>FHWA (WFLHD) Project and Task Number: 1517412012001 500.RS.F15E.41 1741000000 41050 \$65,000.00 SUPPLIER: RASPS STATE OF OREGON WFLHD DOC ID: 27XX412012001F15E</p> <p>Approval date for this project is 3/20/12 (OR Forest Highway Tri-Agency approval date for this funding) Funds for this project are available to ODOT when this agreement is signed and returned to WFLHD</p> | | | | |
| This Agreement shall be effective as of the _____ day of _____, 20____. | | | | |
| By _____ Washington State Department of Transportation (Name of Cooperator) | | U. S. DEPARTMENT OF TRANSPORTATION | | |
| By _____ Title Program & Funding Spec. Mgr. | | By _____ Title FINANCIAL SPECIALIST | | |
| By _____ Title _____ | | | | |
| By _____ Title _____ | | | | |
| | | FUNDS CERTIFYING OFFICER _____ DATE: _____ | | |

Mt. Hood Multimodal Transportation Plan

The Oregon Department of Transportation (ODOT), USFS, Clackamas and Hood River Counties request that the Tri Agency Group allocate \$65,000 in planning funds, from the Forest Highway Program, to ODOT for the development of a Mt. Hood Multimodal Transportation Plan (MHMTP). If awarded, the Tri-Agency funds would allow ODOT to fully fund the planning effort as currently scoped and would be matched three-to-one by state and local dollars.

The \$284,000 project budget reflects a leaner more focused planning effort than the \$1 to \$1.5 million proposal the partners brought to you in 2009. The 25 percent share requested from the Forest Highway Program is also proportionate to the amount of National Forest generated traffic on the Mt. Hood Highway.

The Need:

Transportation demand on Mt. Hood is outpacing capacity and people who wish to travel to and from the mountain have very few options other than to drive a personal vehicle. During peak ski season that same driver often has a very difficult time finding a place to park (with some lots filling up as early as 9:00 AM), which has led to the ski areas operating below the levels permitted in their approved master plans. US 26-OR 35 also experience poor safety performance. To help address these challenges, the US Congress included language in the 2009 Omnibus Wilderness bill which directed the Secretary of Agriculture to work with the Oregon Department of Transportation to develop a multimodal transportation plan for Mt Hood.

The Scope:

The MHMTP will have two focus areas: **Highway Safety and Travel Options**. Analysis of highway safety will evaluate needs and design solutions to improve safety including but not limited roadway improvements, intelligent transportation systems (ITS) such as variable message and variable speed signs, and other operational improvements. Evaluation of travel options will consider transit, carpooling, park and rides, intermodal transportation hubs, traveler information, and marketing tools to inform the public about travel options and encourage travel during off-peak hours.

Recent Actions:

Staff from the partner agencies have been meeting since this summer to establish the draft charge and a draft scope of work (attached). In 2012, the Project Leadership Team for the plan (Jason Tell – ODOT, Chris Worth – USFS, Jamie Damon – Clackamas County, and Karen Joplin – Hood River County) gave the go-ahead to for the plan's focus on safety and travel options and have approved moving ahead with consultant selection. ODOT will manage the planning effort and the partner agencies have committed to providing ongoing staff support.

Our overarching goal is to ensure that we stay focused on effective, implementable alternatives that can be delivered in a constrained funding environment. We are also working closely with our partners to ensure that we maximize rather than duplicate

planning efforts. For example, the USFS is conducting a \$100,000 FTA-funded transit study which will result in the design of a 5-year transit/tdm pilot project. Clackamas County is updating their Transportation System Plan. ODOT's planning work will build upon, rather than replicate this work. By acting now, we can maximize efficiencies and avoid duplication in public involvement and technical analysis.

Background:

ODOT has completed numerous safety and preservation projects in the US 26-OR 35 corridor in the past 20 years, including a realignment of US 26-East Government Camp Loop, and the installation of an innovative cable barrier in the Cherry Hill area. \$26 million in safety and pavement preservation improvements are programmed in the 2012 - 2013 STIP. In addition to conducting two Road Safety Audits for sections of US 26 and OR 35 within the Mt. Hood National Forest (\$80,000), ODOT has also programmed \$350,000 to fund safety projects identified in the MHMTP.

ODOT, with support from the MHMTP partner agencies, also has a pending grant application in to the Public Lands Highway Division for ITS enhancements, including new and improved variable message signs and variable speed signs on the US 26-OR 35 corridor.

In 2009, the USFS spent \$40,000 for a Transportation Advisory Group assessment and report on transportation issues and options for the MHNF.

MHMTP Funding Outlook

| Contributing Agency | Funding Commitments to Date | Funding yet to be identified |
|-------------------------------------|------------------------------------|---|
| Oregon Department of Transportation | \$204,000 | |
| Clackamas County | \$10,000 | |
| Hood River County | \$5,000 | |
| Tri-Agency Planning Funds | | \$65,000 |
| | | \$65,000 (Total project budget = \$283,685) |



Laura Zentner, CPA
Deputy Director

7

BUSINESS AND COMMUNITY SERVICES

Development Services Building
150 Beaver Creek Road, Oregon City, OR 97045

May 9, 2013

Board of County Commissioners
Clackamas County

Members of the Board:

**Cooperative Intergovernmental Agreement between Clackamas County
and the City of Lake Oswego for Capital Contribution**

| | |
|--|---|
| Purpose/Outcomes | Contract between Clackamas County and the City of Lake Oswego outlining service levels for Library Network and specifying the distribution of capital funds to the City of Lake Oswego. |
| Dollar Amount and Fiscal Impact | One-time capital contribution to the City of Lake Oswego to assist their library in meeting the Service Standards as defined in the Library District IGA. |
| Funding Source | County General Fund - these capital funds are to be drawn from operational funds previously dedicated and distributed from the county general fund to library cities. |
| Safety Impact | NA |
| Duration | March 19, 2013 with an automatic annual renewal each year. |
| Previous Board Action | Library District IGA signed by 10 cities when the Library District was formed in November 2008. |
| Contact Person | Laura Zentner, BCS Deputy Director 503.742.4351 |
| Contract No. | NA |

BACKGROUND:

Clackamas County collaborated with 10 cities to develop a plan for funding public library operations, Library Network operations and to help address library capital needs. This collaboration led to the establishment of the Library District in November 2008 when voters approved a countywide Library District for Clackamas County. As part of the formation of the District, two intergovernmental agreements (IGA's) were developed. The first was an IGA between the Library District Board and the library cities. This agreement outlined the distribution of Library District funds and the responsibilities of the parties.

The second IGA was between Clackamas County and the library cities. This IGA outlined service levels for Library Network, which provides centralized administrative support, cataloging, courier, computerized circulation, and on-line services allowing libraries in the County to operate much more cooperatively and efficiently. The Library District was not intended to fund the Library Network. A commitment was made by the Board of County Commissioners as part of the formation process of the District to fund the Library Network at its current service level into the future. The IGA also outlines the distribution of capital funds to city library service providers. These capital funds are to be drawn from operational funds previously dedicated and distributed from the county general fund to library cities.

All ten library cities have signed the District IGA. Seven city library service providers have signed the County IGA. The City of Lake Oswego's signed IGA is attached. Each city must have signed the IGA and submit a letter requesting capital funds for a specific purpose or project that fall within the IGAs requirements before capital funds can be distributed.

The Cooperative Intergovernmental Agreement between Clackamas County and library cities was approved by the Board of County Commissioners and library cities. It was developed and approved by County Counsel.

RECOMMENDATION:

Business and Community Services respectfully recommends that the Board of Clackamas County Commissioners approve and sign the attached IGA between Clackamas County and the City of Lake Oswego.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Laura Zentner".

Laura Zentner
Deputy Director of Business and Community Services

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COOPERATIVE INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY
AND
THE CITY OF LAKE OSWEGO

THIS COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this "Agreement"), is entered into this 19th day March, 2013, by and between the Clackamas County (the "County") a political subdivision of the State of Oregon, and the City of Lake Oswego, a municipal corporation (the "City").

WHEREAS, the County has formed the Library District of Clackamas County (the "District"), a county service district dedicated to supporting the provision of library services within its boundaries; and

WHEREAS, as part of the preparatory process for the formation of the District, the Board of County Commissioners proposed a one-time contribution from the County general fund to each city providing library services in the District for the sole purpose of capital improvements to the libraries therein (the "Capital Contribution"); and

WHEREAS, the City and other cities within the District have entered into a separate intergovernmental agreement dated July 1, 2009 with the District for the distribution of District funds for the purposes of operating, maintaining and enhancing services at the libraries within the District (the "District IGA"); and

WHEREAS, the County is entering into similar intergovernmental agreements with city library service providers ("Library Cities") for their respective Capital Contributions; and

WHEREAS, the parties desire to enter into this Agreement to reflect the terms of the Capital Contribution by the County;

NOW, THEREFORE, the County and City each covenant and agree to the following:

Section 1 Obligations of the County

- 1.1 County Capital Contribution. The County shall provide a one-time capital contribution of One Million and No/100 Dollars (\$1,000,000.00) to the City for the purposes set forth in Section 2.2 (the "Capital Contribution"), which will be distributed in one or more distributions pursuant to Section 1.3 hereof. The goal of distributing such capital funds is to assist libraries in meeting the Service Standards as defined in the District IGA.

- 1.2 Library Capital Trust Fund. The County shall allocate a guaranteed amount per fiscal year to a County-managed dedicated library capital trust fund (the "Capital Fund") as scheduled and set forth in Exhibit A (the "Disbursement Schedule").
- 1.3 Capital Fund Distribution. The County shall disburse the Capital Contribution from the Capital Fund to the Library Cities based on the Disbursement Schedule. The County shall make distributions up to the maximum available amount for that fiscal year. Such distribution will be made by the County no earlier than January of such fiscal year and no later than 60 days after the Library City submits to the County a capital plan identifying how the Library City will use the Capital Contribution. If requests for distributions in a given fiscal year are for a total amount less than the total amount in the Capital Fund, the County shall carry forward such balance to the next fiscal year for distribution as requested. Notwithstanding the foregoing, and despite the fact that the Disbursement Schedule shows that payment to the City was to have been made in fiscal year 2011/12, the parties acknowledge that the City has not yet received the Capital Distribution. The County shall disburse the Capital Distribution to the City upon the City's request, and no later than 60 days after the City submits to the County the capital plan described in this Section. The provisions of Section 2 of this Agreement shall apply to the City's use of the distributed funds.
- 1.4 Library Network. The County currently funds and operates the Library Network of Clackamas County (the "Network") to support the provision of services by the libraries in Clackamas County. The County shall fund the Network to provide the following services at an overall service level at least equal to that being provided by Network in fiscal year 2008/2009:
 - 1.4.1 Automated library system and related telecommunications and technical support;
 - 1.4.2 Courier services;
 - 1.4.3 Administration;
 - 1.4.4 Database management services including creating/acquiring MARC format bibliographic records;
 - 1.4.5 Inter-library loan services;
 - 1.4.6 Inter and intra-regional cooperative library planning;
 - 1.4.7 Shared online databases for public use; and
 - 1.4.8 Internet Service Provider for member libraries.

The County shall not be financially or otherwise responsible for the provision of new services requested or added to Network at the request of the City. To the extent the City or Library Cities generally request new or additional services, such requesting provider(s) will be billed back on separate contracts initiated as

services are added. Such agreements shall not modify or restrict the covenants and agreements of the parties hereto.

Section 2 Obligations of the City

- 2.1 Capital Fund Disbursement. The City shall receive its Capital Contribution pursuant to Sections 1.3 hereof.
- 2.2 Use of Funds. The City shall expend the Capital Contribution solely for library purposes such as library construction, remodel, expansion, building and site improvements, library construction bonded debt service, and/or collection development.
- 2.3 Proof of Use. After distribution, the County may monitor the use of the Capital Contribution to ensure that these County general funds are used for purposes permitted by Section 2.2. Upon request of the County the City shall provide a certification that the Capital Contribution has been so used to the head of the Business and Community Services Department of Clackamas County or his or her designee.
- 2.4 Library Board Representation. The City shall provide for fair representation of served library patrons on the City's library board, including patrons from unincorporated Clackamas County.

Section 3 Term and Termination

- 3.1 Term. This Agreement shall commence on March 19, 2013 and automatically renew annually thereafter, unless otherwise terminated as set forth herein.
- 3.2 Termination. This Agreement shall terminate upon the agreement of both parties, or upon one hundred eighty (180) days prior written notice from one party to the other.
- 3.3 Amendment. This Agreement may be amended at any time upon the agreement of both parties.
- 3.4 Failure of the City to use Capital Contribution for Library purpose. If the City at any time uses the Capital Contribution other than for purposes permitted in Section 2.2., the City will be in material breach of this Agreement and shall promptly repay to the County that portion of the Capital Contribution s not so used plus accrued interest on such sum calculated from the date of disbursement to the date of repayment at a rate of 6% per annum.

Section 4 General Provisions

- 4.1 Indemnification. Each party shall release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, elected officials, employees, and agents, from and against all damages, claims, injuries, costs, or judgments that may in any manner arise as a result of the party's performance under this contract, subject to Oregon Tort claims limitations.
- 4.2 Governing Law. This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 4.3 Savings. Should any portion of this Agreement or amendment there to be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of the Agreement shall remain in effect. Both parties shall immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.
- 4.4 Reasonable Attorney's Fees. In the event any action is brought to enforce, modify or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs incurred in connection with such action or on appeal or review; said amount to be set by the court before which the matter is heard.
- 4.5 Notices. Formal notices, demands and communications between the Parties shall be deemed given three (3) business days after being sent by registered or certified mail, postage prepaid, return receipt requested to the principal offices of the Agency and the City as designated herein. Such written notices, demands and communication may be sent in the same manner to such other addresses and to such other persons and entities as either party may from time to time designate by mail as provided in this section. Notices shall be sent to the addresses shown below and to the attention of the person indicated.

The principal offices and mailing address of the Parties are:

Clackamas County
Attn: Board of County Commissioners
2051 Kaen Road
Oregon City, Oregon 97045

City of Lake Oswego
Attn: City Manager
P.O. Box 369
Lake Oswego, Oregon 97034

- 4.6 No Personal Liability. No member, official, agent, or employee of the County or any City shall be personally liable to the other or any successor-in-interest thereto in the event of any default or breach by such entity.
- 4.7 No Agency. Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 4.8 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the party granting such waiver.
- 4.9 Further Action. The parties hereto shall, without additional consideration, acknowledge, execute, and deliver from time to time such further instruments as a requesting party may reasonably require to accomplish the purposes of this Agreement.
- 4.10 Non-Waiver of Rights. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach of any provision of this Agreement shall not constitute a waiver of any provision of this Agreement or limit the party's right thereafter to enforce any provision or exercise any right.
- 4.11 Time is of the Essence. A material consideration of the parties entering into this Agreement is that the parties will perform all obligations under this Agreement in a timely manner. Time is of the essence as to each and every provision of this Agreement.
- 4.12 Restricted Assignment. No party hereto may assign its rights, responsibilities or obligations hereunder to another party, by operation of law or otherwise, without (i) seeking and receiving an amendment of this Agreement and (ii) having said party join this Agreement on the terms, conditions and covenants herewith.
- 4.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.
- 4.14 Library Authority. Clackamas County operates public libraries pursuant to a board order creating public libraries for all Clackamas County residents dated

July 9, 1938, as amended and updated pursuant to Board Order 85-1221 dated October 31, 1985. The Library Cities operate or in future plan to operate public libraries under state law within their boundaries. Under the District IGA, the Library Cities have agreed to provide public library services in unincorporated areas of the County as well as within City boundaries. Clackamas County nonexclusively delegates the authority to operate public libraries for the benefit of incorporated and unincorporated residents of Clackamas County to the City.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

| THE CITY OF LAKE OSWEGO | CLACKAMAS COUNTY |
|---------------------------------|---------------------|
| By: <u>Tom Coffey</u> | By: _____ |
| Title: <u>City Manager</u> | Title: <u>Chair</u> |
| ATTEST: <u>Colleen Schruder</u> | ATTEST: _____ |

APPROVED AS TO FORM

Neil DeJ
Attorney
City Attorney's Office

Exhibit A

Disbursement Schedule

| | Year 1 2009/10 | Year 2 2010/11 | Year 3 2011/12 | Year 4 2012/13 | Year 5 2013/14 | TOTAL |
|-----------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------|
| Annual Distribution | 3,500,000 | 3,000,000 | 2,500,000 | 2,000,000 | 1,250,000 | 12,250,000 |
| Prior Year Carryover | -- | 1,350,000 | 350,000 | 850,000 | -- | |
| Total Funds Available | 3,500,000 | 4,350,000 | 2,850,000 | 2,850,000 | 1,250,000 | |
| | | | | | | |
| Library Cities: | | | | | | |
| <i>Canby</i> | | | | 1,000,000 | | 1,000,000 |
| <i>Estacada</i> | 1,000,000 | | | | | 1,000,000 |
| <i>Gladstone</i> | | 1,000,000 | | | | 1,000,000 |
| <i>Happy Valley</i> | | 2,000,000 | | | | 2,000,000 |
| <i>Lake Oswego</i> | | | 1,000,000 | | | 1,000,000 |
| <i>Milwaukie</i> | | | | 1,000,000 | | 1,000,000 |
| <i>Molalla</i> | 150,000 | | | 850,000 | | 1,000,000 |
| <i>Oregon City</i> | | 1,000,000 | | | | 1,000,000 |
| <i>Sandy</i> | | | 1,000,000 | | 250,000 | 1,250,000 |
| <i>West Linn</i> | 1,000,000 | | | | | 1,000,000 |
| <i>Wilsonville</i> | | | | | 1,000,000 | 1,000,000 |
| Total | | | | | | 12,250,000 |
| Carryover: | 1,350,000 | 350,000 | 850,000 | -- | -- | |

RESOLUTION 13-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE OSWEGO AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH CLACKAMAS COUNTY, ACCEPTING A CAPITAL CONTRIBUTION FOR LIBRARY PURPOSES

WHEREAS, Clackamas County voters approved the formation of a Library District to provide financial support to the library service providers of Clackamas County; and

WHEREAS, As part of the process for the formation of the Library District, the Board of County Commissioners proposed a one-time contribution from the County general fund to each city providing library services in the District for the sole purpose of capital improvements to libraries, with the sum of \$1 million to be distributed to the City of Lake Oswego; and

WHEREAS, the parties desire to enter into an intergovernmental agreement providing for the proposed capital distribution;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Oswego that:

Section 1 The City Manager is authorized to sign the Cooperative Intergovernmental Agreement between Clackamas County and the City of Lake Oswego, in the form attached a Exhibit 1.

Section 2. This Resolution shall take effect upon passage.

Considered and enacted at the regular meeting of the City Council of the City of Lake Oswego on the 19th day of March, 2013.

AYES: Mayor Studebaker, Bowerman, Gudman, Gustafson, Jordan, Kehoe, O'Neill

NOES: None

EXCUSED: None

ABSTAIN: None




Kent Studebaker, Mayor

ATTEST:



Catherine Schneider, City Recorder

APPROVED AS TO FORM:



David D. Powell, City Attorney

COOPERATIVE INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY
AND
THE CITY OF LAKE OSWEGO

THIS COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this "Agreement"), is entered into this 19th day March, 2013, by and between the Clackamas County (the "County") a political subdivision of the State of Oregon, and the City of Lake Oswego, a municipal corporation (the "City").

WHEREAS, the County has formed the Library District of Clackamas County (the "District"), a county service district dedicated to supporting the provision of library services within its boundaries; and

WHEREAS, as part of the preparatory process for the formation of the District, the Board of County Commissioners proposed a one-time contribution from the County general fund to each city providing library services in the District for the sole purpose of capital improvements to the libraries therein (the "Capital Contribution"); and

WHEREAS, the City and other cities within the District have entered into a separate intergovernmental agreement dated July 1, 2009 with the District for the distribution of District funds for the purposes of operating, maintaining and enhancing services at the libraries within the District (the "District IGA"); and

WHEREAS, the County is entering into similar intergovernmental agreements with city library service providers ("Library Cities") for their respective Capital Contributions; and

WHEREAS, the parties desire to enter into this Agreement to reflect the terms of the Capital Contribution by the County;

NOW, THEREFORE, the County and City each covenant and agree to the following:

Section 1 Obligations of the County

- 1.1 County Capital Contribution. The County shall provide a one-time capital contribution of One Million and No/100 Dollars (\$1,000,000.00) to the City for the purposes set forth in Section 2.2 (the "Capital Contribution"), which will be distributed in one or more distributions pursuant to Section 1.3 hereof. The goal of distributing such capital funds is to assist libraries in meeting the Service Standards as defined in the District IGA.

- 1.2 Library Capital Trust Fund. The County shall allocate a guaranteed amount per fiscal year to a County-managed dedicated library capital trust fund (the "Capital Fund") as scheduled and set forth in Exhibit A (the "Disbursement Schedule").
- 1.3 Capital Fund Distribution. The County shall disburse the Capital Contribution from the Capital Fund to the Library Cities based on the Disbursement Schedule. The County shall make distributions up to the maximum available amount for that fiscal year. Such distribution will be made by the County no earlier than January of such fiscal year and no later than 60 days after the Library City submits to the County a capital plan identifying how the Library City will use the Capital Contribution. If requests for distributions in a given fiscal year are for a total amount less than the total amount in the Capital Fund, the County shall carry forward such balance to the next fiscal year for distribution as requested. Notwithstanding the foregoing, and despite the fact that the Disbursement Schedule shows that payment to the City was to have been made in fiscal year 2011/12, the parties acknowledge that the City has not yet received the Capital Distribution. The County shall disburse the Capital Distribution to the City upon the City's request, and no later than 60 days after the City submits to the County the capital plan described in this Section. The provisions of Section 2 of this Agreement shall apply to the City's use of the distributed funds.
- 1.4 Library Network. The County currently funds and operates the Library Network of Clackamas County (the "Network") to support the provision of services by the libraries in Clackamas County. The County shall fund the Network to provide the following services at an overall service level at least equal to that being provided by Network in fiscal year 2008/2009:
 - 1.4.1 Automated library system and related telecommunications and technical support;
 - 1.4.2 Courier services;
 - 1.4.3 Administration;
 - 1.4.4 Database management services including creating/acquiring MARC format bibliographic records;
 - 1.4.5 Inter-library loan services;
 - 1.4.6 Inter and intra-regional cooperative library planning;
 - 1.4.7 Shared online databases for public use; and
 - 1.4.8 Internet Service Provider for member libraries.

The County shall not be financially or otherwise responsible for the provision of new services requested or added to Network at the request of the City. To the extent the City or Library Cities generally request new or additional services, such requesting provider(s) will be billed back on separate contracts initiated as

- 4.1 Indemnification. Each party shall release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, elected officials, employees, and agents, from and against all damages, claims, injuries, costs, or judgments that may in any manner arise as a result of the party's performance under this contract, subject to Oregon Tort claims limitations.
- 4.2 Governing Law. This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 4.3 Savings. Should any portion of this Agreement or amendment there to be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of the Agreement shall remain in effect. Both parties shall immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.
- 4.4 Reasonable Attorney's Fees. In the event any action is brought to enforce, modify or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs incurred in connection with such action or on appeal or review; said amount to be set by the court before which the matter is heard.
- 4.5 Notices. Formal notices, demands and communications between the Parties shall be deemed given three (3) business days after being sent by registered or certified mail, postage prepaid, return receipt requested to the principal offices of the Agency and the City as designated herein. Such written notices, demands and communication may be sent in the same manner to such other addresses and to such other persons and entities as either party may from time to time designate by mail as provided in this section. Notices shall be sent to the addresses shown below and to the attention of the person indicated.

The principal offices and mailing address of the Parties are:

Clackamas County
Attn: Board of County Commissioners
2051 Kaen Road
Oregon City, Oregon 97045

City of Lake Oswego
Attn: City Manager
P.O. Box 369
Lake Oswego, Oregon 97034

- 4.6 No Personal Liability. No member, official, agent, or employee of the County or any City shall be personally liable to the other or any successor-in-interest thereto in the event of any default or breach by such entity.
- 4.7 No Agency. Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 4.8 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the party granting such waiver.
- 4.9 Further Action. The parties hereto shall, without additional consideration, acknowledge, execute, and deliver from time to time such further instruments as a requesting party may reasonably require to accomplish the purposes of this Agreement.
- 4.10 Non-Waiver of Rights. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach of any provision of this Agreement shall not constitute a waiver of any provision of this Agreement or limit the party's right thereafter to enforce any provision or exercise any right.
- 4.11 Time is of the Essence. A material consideration of the parties entering into this Agreement is that the parties will perform all obligations under this Agreement in a timely manner. Time is of the essence as to each and every provision of this Agreement.
- 4.12 Restricted Assignment. No party hereto may assign its rights, responsibilities or obligations hereunder to another party, by operation of law or otherwise, without (i) seeking and receiving an amendment of this Agreement and (ii) having said party join this Agreement on the terms, conditions and covenants herewith.
- 4.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.
- 4.14 Library Authority. Clackamas County operates public libraries pursuant to a board order creating public libraries for all Clackamas County residents dated

July 9, 1938, as amended and updated pursuant to Board Order 85-1221 dated October 31, 1985. The Library Cities operate or in future plan to operate public libraries under state law within their boundaries. Under the District IGA, the Library Cities have agreed to provide public library services in unincorporated areas of the County as well as within City boundaries. Clackamas County nonexclusively delegates the authority to operate public libraries for the benefit of incorporated and unincorporated residents of Clackamas County to the City.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

| THE CITY OF LAKE OSWEGO | CLACKAMAS COUNTY |
|-------------------------|---------------------|
| By: _____ | By: _____ |
| Title: _____ | Title: <u>Chair</u> |
| ATTEST: _____ | ATTEST: _____ |

Exhibit A

Disbursement Schedule

| | Year 1 2009/10 | Year 2 2010/11 | Year 3 2011/12 | Year 4 2012/13 | Year 5 2013/14 | TOTAL |
|-----------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|--------------|
| Annual Distribution | 3,500,000 | 3,000,000 | 2,500,000 | 2,000,000 | 1,250,000 | 12,250,000 |
| Prior Year Carryover | -- | 1,350,000 | 350,000 | 850,000 | -- | |
| Total Funds Available | 3,500,000 | 4,350,000 | 2,850,000 | 2,850,000 | 1,250,000 | |
| | | | | | | |
| Library Cities: | | | | | | |
| <i>Canby</i> | | | | 1,000,000 | | 1,000,000 |
| <i>Estacada</i> | 1,000,000 | | | | | 1,000,000 |
| <i>Gladstone</i> | | 1,000,000 | | | | 1,000,000 |
| <i>Happy Valley</i> | | 2,000,000 | | | | 2,000,000 |
| <i>Lake Oswego</i> | | | 1,000,000 | | | 1,000,000 |
| <i>Milwaukie</i> | | | | 1,000,000 | | 1,000,000 |
| <i>Molalla</i> | 150,000 | | | 850,000 | | 1,000,000 |
| <i>Oregon City</i> | | 1,000,000 | | | | 1,000,000 |
| <i>Sandy</i> | | | 1,000,000 | | 250,000 | 1,250,000 |
| <i>West Linn</i> | 1,000,000 | | | | | 1,000,000 |
| <i>Wilsonville</i> | | | | | 1,000,000 | 1,000,000 |
| Total | | | | | | 12,250,000 |
| Carryover: | 1,350,000 | 350,000 | 850,000 | -- | -- | |



Laura Zentner, SPA
Deputy Director

8
COPY

BUSINESS AND COMMUNITY SERVICES

Development Services Building
150 Beavercreek Road, Oregon City, OR 97045

May 9, 2013

Board of County Commissioners
Clackamas County

Members of the Board:

**Cooperative Intergovernmental Agreement between Clackamas County
and the City of Milwaukie for Capital Contribution**

| | |
|--|---|
| Purpose/Outcomes | Contract between Clackamas County and the City of Milwaukie outlining service levels for Library Network and specifying the distribution of capital funds to the City of Milwaukie. |
| Dollar Amount and Fiscal Impact | One-time capital contribution to the City of Milwaukie to assist their library in meeting the Service Standards as defined in the Library District IGA. |
| Funding Source | County General Fund - these capital funds are to be drawn from operational funds previously dedicated and distributed from the county general fund to library cities. |
| Safety Impact | NA |
| Duration | January 1, 2013 with an automatic annual renewal on July 1 st of each year. |
| Previous Board Action | Library District IGA signed by 10 cities when the Library District was formed in November 2008. |
| Contact Person | Laura Zentner, BCS Deputy Director 503.742.4351 |
| Contract No. | NA |

BACKGROUND:

Clackamas County collaborated with 10 cities to develop a plan for funding public library operations, Library Network operations and to help address library capital needs. This collaboration led to the establishment of the Library District in November 2008 when voters approved a countywide Library District for Clackamas County. As part of the formation of the District, two intergovernmental agreements (IGA's) were developed. The first was an IGA between the Library District Board and the library cities. This agreement outlined the distribution of Library District funds and the responsibilities of the parties.

The second IGA was between Clackamas County and the library cities. This IGA outlined service levels for Library Network, which provides centralized administrative support, cataloging, courier, computerized circulation, and on-line services allowing libraries in the County to operate much more cooperatively and efficiently. The Library District was not intended to fund the Library Network. A commitment was made by the Board of County Commissioners as part of the formation process of the District to fund the Library Network at its current service level into the future. The IGA also outlines the distribution of capital funds to city library service providers. These capital funds are to be drawn from operational funds previously dedicated and distributed from the county general fund to library cities.

All ten library cities have signed the District IGA. Seven city library service providers have signed the County IGA. The City of Milwaukie's signed IGA is attached. Each city must have signed the IGA and submit a letter requesting capital funds for a specific purpose or project that fall within the IGAs requirements before capital funds can be distributed.

The Cooperative Intergovernmental Agreement between Clackamas County and library cities was approved by the Board of County Commissioners and library cities. It was developed and approved by County Counsel.

RECOMMENDATION:

Business and Community Services respectfully recommends that the Board of Clackamas County Commissioners approve and sign the attached IGA between Clackamas County and the City of Milwaukie.

Respectfully submitted,



Laura Zentner
Deputy Director of Business and Community Services

COPY

COOPERATIVE INTERGOVERNMENTAL AGREEMENT
BETWEEN
CLACKAMAS COUNTY
AND
THE CITY OF MILWAUKIE

THIS COOPERATIVE INTERGOVERNMENTAL AGREEMENT (this "Agreement"), is entered into this 18th day of December, 2012, by and between the Clackamas County (the "County") a political subdivision of the State of Oregon, and the City of Milwaukie, a municipal corporation (the "City").

WHEREAS, the County has formed the Library District of Clackamas County (the "District"), a county service district dedicated to supporting the provision of library services within its boundaries; and

WHEREAS, as part of the preparatory process for the formation of the District, the Board of County Commissioners proposed a one-time contribution from the County general fund to each city providing library services in the District for the sole purpose of capital improvements to the libraries therein (the "Capital Contribution"); and

WHEREAS, the City and other cities within the District have entered into a separate intergovernmental agreement dated October 9, 2009 with the District for the distribution of District funds for the purposes of operating, maintaining and enhancing services at the libraries within the District (the "District IGA"); and

WHEREAS, the County is entering into similar intergovernmental agreements with city library service providers ("Library Cities") for their respective Capital Contributions; and

WHEREAS, the parties desire to enter into this Agreement to reflect the terms of the Capital Contribution by the County;

NOW, THEREFORE, the County and City each covenant and agree to the following:

Section 1 Obligations of the County

1.1 County Capital Contribution. The County shall provide a one-time capital contribution of One Million and No/100 Dollars (\$1,000,000.00) to the City for the purposes set forth in Section 2.2 (the "Capital Contribution"), which will be distributed in one or more distributions pursuant to Section 1.3 hereof. The goal of distributing such capital funds is to assist libraries in meeting the Service Standards as defined in the District IGA.

- 1.2 Library Capital Trust Fund. The County shall allocate a guaranteed amount per fiscal year to a County-managed dedicated library capital trust fund (the "Capital Fund") as scheduled and set forth in Exhibit A (the "Disbursement Schedule").
- 1.3 Capital Fund Distribution. The County shall disburse the Capital Contribution from the Capital Fund to the City and other Library Cities based on the Disbursement Schedule. The County shall make distributions up to the maximum available amount for that fiscal year. Such distribution will be made by the County no earlier than January of such fiscal year and no later than 60 days after the City submits to the County a capital plan identifying how the City will use the Capital Contribution. If requests for distributions in a given fiscal year are for a total amount less than the total amount in the Capital Fund, the County shall carry forward such balance to the next fiscal year for distribution as requested.
- 1.4 Changes In Capital Fund Disbursement Schedule. To the extent the City desires a change in the schedule of disbursement, the City shall meet with representatives of the other Library Cities as constituted by the Library District Advisory Committee or otherwise and arrive at a mutually agreeable reordering of the Disbursement Schedule, which shall then be presented to the County Board for its approval. The City hereby consents to an alteration of the Disbursement Schedule without requiring the adoption of a specific amendment upon presentation of a resolution agreed to by a majority of the representatives of the Library Cities consenting to such change and upon approval of the requested change by the Board of County Commissioners.
- 1.5 Library Network. The County currently funds and operates the Library Network of Clackamas County (the "Network") to support the provision of services by the libraries in Clackamas County. The County shall fund the Network to provide the following services at an overall service level at least equal to that being provided by Network in fiscal year 2008/2009:
 - 1.5.1 Automated library system and related telecommunications and technical support;
 - 1.5.2 Courier services;
 - 1.5.3 Administration;
 - 1.5.4 Database management services including creating/acquiring MARC format bibliographic records;
 - 1.5.5 Inter-library loan services;
 - 1.5.6 Inter and intra-regional cooperative library planning;
 - 1.5.7 Shared online databases for public use; and
 - 1.5.8 Internet Service Provider for member libraries.

The County shall not be financially or otherwise responsible for the provision of new services requested or added to Network at the request of the City. To the extent the City or Library Cities generally request new or additional services, such requesting provider(s) will be billed back on separate contracts initiated as services are added. Such agreements shall not modify or restrict the covenants and agreements of the parties hereto.

Section 2 **Obligations of the City**

- 2.1 Capital Fund Disbursement. The City shall receive its Capital Contribution pursuant to Sections 1.3 and 1.4 hereof.
- 2.2 Use of Funds. The City shall expend the Capital Contribution solely for library purposes such as library construction, remodel, expansion, building and site improvements, library construction bonded debt service, and/or collection development.
- 2.3 Proof of Use. After distribution, the County may monitor the use of the Capital Contribution to ensure that these County general funds are used for purposes permitted by Section 2.2. Upon request of the County, the City shall provide a certification that the Capital Contribution has been so used to the head of the Business and Community Services Department of Clackamas County or his or her designee.
- 2.4 Library Board Representation. The City shall provide for fair representation of served library patrons on the City's library board, including patrons from unincorporated Clackamas County.

Section 3 **Term and Termination**

- 3.1 Term. This Agreement shall commence on January 1, 2013 and automatically renew annually each July 1st thereafter, unless otherwise terminated as set forth herein.
- 3.2 Termination. This Agreement shall terminate upon the agreement of both parties, or upon one hundred eighty (180) days prior written notice from one party to the other.
- 3.3 Amendment. This Agreement may be amended at any time upon the agreement of both parties.
- 3.4 Failure of the City to use Capital Contribution for Library purpose. If the City at any time uses the Capital Contribution other than for purposes permitted in Section 2.2., the City will be in material breach of this Agreement and shall promptly repay to the County that portion of the Capital Contribution not so

used plus accrued interest on such sum calculated from the date of disbursement to the date of repayment at a rate of 6% per annum.

Section 4 General Provisions

- 4.1 Indemnification. Each party shall release, defend, indemnify and/or hold harmless the other, its officers, commissioners, councilors, elected officials, employees, and agents, from and against all damages, claims, injuries, costs, or judgments that may in any manner arise as a result of the party's performance under this contract, subject to Oregon Tort claims limitations.
- 4.2 Governing Law. This Agreement shall be construed and governed in all respects in accordance with laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- 4.3 Savings. Should any portion of this Agreement or amendment there to be adjudged by a Court of appropriate final jurisdiction to be in violation of any local, state or federal law, then such portion or portions shall become null and void, and the balance of the Agreement shall remain in effect. Both parties shall immediately renegotiate any part of this Agreement found to be in such violation by the Court and to bring it into compliance with said laws.
- 4.4 Reasonable Attorney's Fees. In the event any action is brought to enforce, modify or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs incurred in connection with such action or on appeal or review; said amount to be set by the court before which the matter is heard.
- 4.5 Notices. Formal notices, demands and communications between the Parties shall be deemed given three (3) business days after being sent by registered or certified mail, postage prepaid, return receipt requested to the principal offices of the Agency and the City as designated herein. Such written notices, demands and communication may be sent in the same manner to such other addresses and to such other persons and entities as either party may from time to time designate by mail as provided in this section. Notices shall be sent to the addresses shown below and to the attention of the person indicated.

The principal offices and mailing address of the Parties are:

Clackamas County
Attn: Board of County Commissioners
2051 Kaen Road
Oregon City, Oregon 97045

City of Milwaukie
Attn: Bill Monahan
City Manager
10722 SE Main Street
Milwaukie, OR 97222

- 4.6 No Personal Liability. No member, official, agent, or employee of the County or any City shall be personally liable to the other or any successor-in-interest thereto in the event of any default or breach by such entity.
- 4.7 No Agency. Neither anything in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement. No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 4.8 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of the party granting such waiver.
- 4.9 Further Action. The parties hereto shall, without additional consideration, acknowledge, execute, and deliver from time to time such further instruments as a requesting party may reasonably require to accomplish the purposes of this Agreement.
- 4.10 Non-Waiver of Rights. The failure of a party to insist on the strict performance of any provision of this Agreement or to exercise any right, power or remedy upon a breach of any provision of this Agreement shall not constitute a waiver of any provision of this Agreement or limit the party's right thereafter to enforce any provision or exercise any right.
- 4.11 Time is of the Essence. A material consideration of the parties entering into this Agreement is that the parties will perform all obligations under this Agreement in a timely manner. Time is of the essence as to each and every provision of this Agreement.
- 4.12 Restricted Assignment. No party hereto may assign its rights, responsibilities or obligations hereunder to another party, by operation of law or otherwise, without (i) seeking and receiving an amendment of this Agreement and (ii) having said party join this Agreement on the terms, conditions and covenants herewith.

- 4.13 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.
- 4.14 Library Authority. Clackamas County operates public libraries pursuant to a board order creating public libraries for all Clackamas County residents dated July 9, 1938, as amended and updated pursuant to Board Order 85-1221 dated October 31, 1985. The Library Cities operate or in future plan to operate public libraries under state law within their boundaries. Under the District IGA, the Library Cities have agreed to provide public library services in unincorporated areas of the County as well as within City boundaries. Clackamas County nonexclusively delegates the authority to operate public libraries for the benefit of incorporated and unincorporated residents of Clackamas County to the City.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.


| THE CITY OF MILWAUKIE | CLACKAMAS COUNTY |
|--|----------------------------------|
| By: <u></u> Title: <u>Mayor of Milwaukie</u> | By: _____ Title: <u>Chair</u> |
| ATTEST: <u>Pat Suwal</u> | ATTEST: _____ |

Exhibit A

Disbursement Schedule

| | Year 1 2009/10 | Year 2 2010/11 | Year 3 2011/12 | Year 4 2012/13 | Year 5 2013/14 | TOTAL |
|------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------|
| Annual Distribution | 3,500,000 | 3,000,000 | 2,500,000 | 2,000,000 | 1,250,000 | 12,250,000 |
| Prior Year Carryover | -- | 1,350,000 | 350,000 | 850,000 | -- | |
| Total Funds Available | 3,500,000 | 4,350,000 | 2,850,000 | 2,850,000 | 1,250,000 | |
| | | | | | | |
| Library Cities: | | | | | | |
| <i>Canby</i> | | | | 1,000,000 | | 1,000,000 |
| <i>Estacada</i> | 1,000,000 | | | | | 1,000,000 |
| <i>Gladstone</i> | | 1,000,000 | | | | 1,000,000 |
| <i>Happy Valley</i> | | 2,000,000 | | | | 2,000,000 |
| <i>Lake Oswego</i> | | | 1,000,000 | | | 1,000,000 |
| <i>Milwaukie</i> | | | | 1,000,000 | | 1,000,000 |
| <i>Molalla</i> | 150,000 | | | 850,000 | | 1,000,000 |
| <i>Oregon City</i> | | 1,000,000 | | | | 1,000,000 |
| <i>Sandy</i> | | | 1,000,000 | | 250,000 | 1,250,000 |
| <i>West Linn</i> | 1,000,000 | | | | | 1,000,000 |
| <i>Wilsonville</i> | | | | | 1,000,000 | 1,000,000 |
| Total | | | | | | 12,250,000 |
| Carryover: | 1,350,000 | 350,000 | 850,000 | -- | -- | |